



## **AGENDA**

### **GARDNER CITY COUNCIL**

City Hall – 120 East Main Street -- Gardner, Kansas  
Tuesday, January 21, 2020  
7:00 p.m.

#### **CALL TO ORDER**

#### **PLEDGE OF ALLEGIANCE**

#### **PRESENTATIONS**

1. Proclaim January 26, 2020-February 2, 2020 as Buckle Up for Safety and Lives Week
2. Southwest Johnson County Economic Development Corporation
3. Gardner Land Bank Annual Report

#### **PUBLIC HEARING**

#### **PUBLIC COMMENTS**

Members of the public are welcome to use this time to make comments about City matters or items on the agenda that are not part of a public hearing

#### **CONSENT AGENDA**

1. Standing approval of the minutes as written for the regular meeting on January 6, 2020.
2. Standing approval of City expenditures prepared January 3, 2020 in the amount of \$732,567.20; and January 10, 2020 in the amount of \$1,226,365.10.
3. Consider the appointment of Kacy Deaton to the Planning Commission
4. Consider the appointment of Eric Hansen to the Planning Commission
5. Consider authorizing an agreement with the Southwest Johnson County Economic Development Corporation
6. Consider authorizing an agreement for bond counsel services with Kutak Rock LLP
7. Consider authorizing a sludge removal contract with Digital Erth Consulting, LLC
8. Consider approving the 2020 County Assisted Road System (CARS) agreement for the Moonlight and Madison signal project
9. Consider authorizing the execution of a Change Order with Lan-Tel for the Pavement Management Program-Concrete
10. Consider authorizing an agreement with CivicRec to provide parks and recreation software services
11. Consider authorizing the purchase of ten (10) portable radios and related equipment from Ka-Comm, Inc.
12. Consider appointing City of Gardner representatives to the Kansas Rural Water Association
13. Consider authorizing the execution of Amendment 1 to the Hillsdale WTP Expansion Phase 1 Agreement with Burns & McDonnell-CAS Constructors for easement acquisition support

#### **PLANNING AND ZONING CONSENT AGENDA**

#### **COMMITTEE RECOMMENDATIONS**

1. Consider a recommendation to implement Private Inflow & Infiltration work as part of the I&I Project
2. Consider a recommendation to procure a high-pressure CO2 Fire Protection System for the Gas Turbines

#### **OLD BUSINESS**

#### **NEW BUSINESS**

1. Consider authorizing the City Administrator to enter into an agreement with CBIZ Benefits & Insurance Services, Inc. for employee benefits consulting services
2. Consider adopting an ordinance amending the City of Gardner's Base Salary Structure-Fiscal Year 2019-2020
3. Consider accepting voluntary annexations with landowner consent



In compliance with the Americans with Disabilities Act, the City of Gardner will provide reasonable accommodations for all public meetings. Persons requiring accommodations in attending any of our public meetings should contact the City Clerk's Office at 913-856-0945 a minimum of 48 hours prior to the meeting.

4. Consider accepting a voluntary annexation with landowner consent
5. Consider adopting an ordinance to condemn land for the location, laying-out, construction, reconstruction, operation, use, maintenance and repair of a raw water lines and improvements attendant thereto from Hillsdale Lake to the City's Hillsdale Water Treatment Plant located within Miami County, Kansas, and directing the City Attorney to institute eminent domain proceedings as provided by law to acquire the tracts and parcels of land as described

**COUNCIL UPDATE** – Oral presentation unless otherwise noted

**EXECUTIVE SESSION**

1. Consider entering into executive session to discuss personnel matters relating to non-elected personnel
2. Consider entering into executive session to discuss matters of attorney-client privilege regarding pending litigation

**ADJOURNMENT**

# PROCLAMATION

**WHEREAS**, the safety and security of the citizens of the City of Gardner, Kansas and surrounding areas are vitally important; and

**WHEREAS**, on the average, 109 people are killed in traffic accidents each day and over three million Americans are seriously injured in traffic accidents each year, many of them permanently; and

**WHEREAS**, it is estimated that 90% of Americans and 82% of Kansans voluntarily buckle up; and

**WHEREAS**, U.S. highway safety officials estimate if this number were increased to 100%, an estimated three thousand lives could be saved each year, and two million injuries prevented or reduced in severity; and

**WHEREAS**, the resulting reduction in medical and other expenditures would be in the billions of dollars; and

**WHEREAS**, regular seat belt use is the single most effective way to reduce fatalities in motor vehicle crashes; and

**WHEREAS**, increased enforcement of seat belt laws coupled with publicity has proven to be an effective method to increase seat belt use rates and decrease fatal crashes.

**NOW, THEREFORE BE IT RESOLVED**, that I, Steve Shute Mayor of the City of Gardner, Kansas, do hereby proclaim the week of January 26, 2020—February 2, 2020, be designated

## Buckle Up for Safety and Lives Week

and announce that during the next week, a campaign urging drivers and their passengers to wear seatbelts will be conducted by the Gardner Police Department and Dr. Todd Winters to improve safety. Citizens who are wearing seatbelts will be awarded during the campaign for their safety awareness.

In witness whereof, I have hereunto set my hand and caused the Seal of the City of Gardner, Kansas to be affixed this 21st day of January, 2020.

CITY OF GARDNER, KANSAS

\_\_\_\_\_  
Steve Shute, Mayor

(SEAL)

Attest:

\_\_\_\_\_  
Sharon Rose, City Clerk

## COUNCIL ACTION FORM

## PRESENTATION ITEM NO. 2

**MEETING DATE:** JANUARY 21, 2020

**STAFF CONTACT:** MATTHEW WOLFF, FINANCE DIRECTOR

---

**Agenda Item:** Gardner Land Bank Annual Report

**Strategic Priority:** Fiscal Stewardship

**Department:** Administration/Finance

---

### **Background/Description of Item:**

On November 5, 2018, the City Council passed Ordinance 2593 establishing a land bank pursuant to K.S.A. 12-5901 *et. Seq.* and approving the addition of Chapter 2.65 to the code of the City of Gardner, Kansas.

The land bank is required to provide an annual report to the Governing Body accounting for all receipts, disbursements, and property transactions. The land bank currently has no properties and there were no property transactions last year. The land bank did receive \$5,000 in initial funding from the General Fund. As of January 21, 2020, no funds have been spent. The land bank's financial records will be audited as part of the City's 2019 audit.

### **Attachments:**

- Gardner Land Bank 2019 Annual Report



**Gardner Land Bank  
2019 Annual Report**

**Financial Report**

<b>Funds Available Jan 1</b>	<b>\$0</b>
Revenue:	
Transfers In from General Fund	5,000
Revenue Total	5,000
	=====
Expenditures:	
Expenditures Total	0
	=====
Surplus/(Shortfall)	5,000
<b>Ending Fund Balance</b>	<b>\$5,000</b>
	=====

**Property Inventory**

The Gardner Land Bank currently owns no properties.

**Property Transactions**

The Gardner Land Bank participated in no property transactions in 2019.

RECORD OF PROCEEDINGS  
OF THE GOVERNING BODY  
CITY OF GARDNER, KANSAS

Page No. 2020 – 01

January 6, 2020

The City Council of the City of Gardner, Kansas met in regular session on January 6, 2020, at 7:00 p.m. in the Council Chambers at Gardner City Hall, 120 East Main Street, Gardner, Kansas, with the Mayor Steve Shute presiding. Present were Councilmembers Todd Winters, Rich Melton, Mark Baldwin, Randy Gregorcyk and Tory Roberts. City staff present were City Administrator James Pruetting; Business & Economic Development Director Larry Powell; Utilities Director Gonzalo Garcia; Public Works Director Michael Kramer; Parks and Recreation Director Jason Bruce; Police Chief James Belcher; City Attorney Ryan Denk; and City Clerk Sharon Rose. Others present included those listed on the attached sign-in sheet and others who did not sign in.

**CALL TO ORDER**

There being a quorum of Councilmembers present, the meeting was called to order by Mayor Shute at 7:00 p.m.

**PLEDGE OF ALLEGIANCE**

**PRESENTATIONS**

**PUBLIC HEARING**

**PUBLIC COMMENTS**

Rylen Meyer, 530 S. Meadowbrook St, stated she is attending the meeting as part of her Citizenship in the Community merit badge.

Jessica Cowel, 1199E. Santa Fe Lot 422 stated she is attending the meeting as part of her Citizenship in the Community merit badge.

Shelby Harding, 31828 W. 172<sup>nd</sup> St, stated she is attending the meeting as part of her Citizenship in the Community merit badge.

**CONSENT AGENDA**

1. **Standing approval of the minutes as written for the regular meeting on December 16, 2019**
2. **Standing approval of City expenditures prepared December 13, 2019 in the amount of \$1,947,558.24; December 20, 2019 in the amount of \$924,335.79; and December 27, 2019 in the amount of \$1,058,273.56.**

Councilmember Melton made a motion to approve the Consent Agenda.

Councilmember Baldwin Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

**PLANNING & ZONING CONSENT AGENDA**

**COMMITTEE RECOMMENDATIONS**

**OLD BUSINESS**

**NEW BUSINESS**

1. **Consider accepting annexation with Landowner Consent**

Business and Economic Development Director Larry Powell stated that staff received a voluntary annexation request with landowner consent on December 13, 2019. Staff recommends council adopt an ordinance annexing land in unincorporated Johnson County owned by Anita Carpenter, 27010 W. 199<sup>th</sup> Street, containing

approximately 1.87 acres more or less. The legal description was included in the packet. This request meets all the requirements for voluntary annexation by KSA Statutes. There is no need for public hearing, public notice or extension of service plan requirements that apply to other annexations. The paperwork is in order for your consideration.

Councilmember Melton made a motion to accept the Voluntary Consent Annexation Agreement and Consent Annexation Request of Anita A. Carpenter and adopt an ordinance annexing land to the City of Gardner, Kansas.

Councilmember Winters Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2644.

Roberts:	Yes
Winters:	Yes
Baldwin	Yes
Gregorcyk:	Yes
Melton:	Yes

**2. Consider revising the use provisions for Communications and Utilities, Public Utility Facility – Major in the Gardner Land Development Code**

Business and Economic Development Director Larry Powell said this is a request for the council to direct the Planning Commission to take under advisement a change in the Land Development Code (LDC) to allow for our public infrastructure – major, which in this case would be the sanitary sewer plant, water plant, electric generating plant, and depending on size, substations to be allowed as an allowable use within an agricultural zoning district. Currently there are conditional use provisions for these. Since the city is taking steps to annex the water treatment plant, which is currently zoned an Ag type zone in Miami County, it's the right time to bring our sewer plant into compliance and allow the zoning to remain the same in Miami County so that if, in the future, that plant were to be removed, the zoning would be compatible with the existing zones that surround it. This is a request to add uses to the LDC for those particular uses which don't exist at this time except as conditional use permits. Mayor Shute clarified that Director Powell meant to say water plant instead of sewer plant. Director Powell said it's actually both. Currently, the sewer plant is a non-conforming use, and this would bring it into compliance as a conforming use. It also allows for the water treatment plant to be in a conforming use at the same time if it's annexed into the city.

Councilmember Gregorcyk made a motion to direct the Planning Commission to consider revising the use provisions for Communications and Utilities to permit Public Utility Facility – Major as a Conditional Use subject to additional standards in additional zoning districts (including the agriculture district).

Councilmember Melton Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

**3. Consider adopting a resolution describing the 2019 Corporate Limits and Boundaries of the City of Gardner**

Public Works Director Michael Kramer said this is a housekeeping item. The city is required by state statute to update their boundary legal description annually. Staff added the properties annexed in 2019 to city corporate limits.

Councilmember Melton made a motion to adopt a resolution describing the Corporate Limits and Boundaries of the City of Gardner, Johnson County, Kansas, a city of the second class.

Councilmember Gregorcyk Seconded.

With all of the Councilmembers voting in favor of the motion, the Resolution passed and was assigned Resolution number 2047.

Winters:	Yes
Baldwin	Yes
Gregorcyk:	Yes
Melton:	Yes
Roberts:	Yes

### **COUNCIL UPDATES**

City Clerk Rose reminded council members that there are still open positions on several committees and applications are coming in. She's begun setting up interviews for the Planning Commission opening, but council needs to set interview teams for the remaining committees. Mayor Shute called on volunteers from the governing body. Interview team appointments are as follows: UAC – Gregorcyk and Baldwin; CPAC – Melton and Winters; PWAAC – Roberts and Baldwin; PRAC – Winters and Gregorcyk.

Director Kramer stated that in 2019, they revised the policy for lake lot purchases. It allows staff to sell properties between the lot and the lake. Kramer showed an image showing where a lot owner has requested to purchase property that the City of Gardner owns between the lot and the County road right-of-way. Staff is of the opinion that if it's okay with the county and their Planning and Zoning, the city doesn't have any issue selling the additional property. Before the lot owner invests money and time doing surveys, etc, they asked to bring it before council and get a consensus that the city doesn't have issue with the sale. Mayor Shute asked if this is still considered surplus land, even though it's away from the lakeshore. Director Kramer confirmed. Shute asked if this would fall under the same pricing structure already permitted. Kramer agreed that is appropriate. Councilmember Melton asked who is maintaining this lot. Director Kramer believes it to be a combination of the landowner and the county. Councilmember Baldwin if there would be an issue if the approved in this case, there would be requests to do the same thing in other areas? Director Kramer said not at this time; he can bring them back on a case-by-case basis. Mayor Shute asked council for consensus and received affirmative responses from all council members to move forward.

Director Kramer provided an update to the discussion of sidewalks and snow removal. He reached out neighboring cities to see their policies and looked at federal guidelines. Olathe and Leawood have similar guidelines as Gardner. Leawood points to the abutting property owner as responsible for sidewalks and ramps, and they have 48 hours. Olathe ordinances done give a timeframe. Kramer spoke to their codes enforcement, and they haven't had many complaints or issues in the past. Overland Park has no ordinance requiring snow removal on sidewalks. They have a council policy where they strongly encourage snow removal, but have no ordinance. The only time they have any snow enforcement is if a resident or contractor is piling snow and blocking a sidewalk, but if it's fallen naturally, they aren't going to do any enforcement. In reviewing Gardner's ordinance, it was revised in 2016. Kramer emailed council the minutes from the ADA committee where it was reviewed. Staff believes it is adequate. The Codes Enforcement Officer is here tonight, and she's done a great job in notifying people of violations and works with them through the codes process. Councilmember Melton said he sees a common issue is when the sidewalk has been cleared off and the truncated dome is clear, then a plow truck comes by and the plow pushes snow back onto the truncated dome and blocks the sidewalk again. If the sidewalk has already been cleared, is it the property owner's responsibility to clear that off again? Director Kramer confirmed that, yes, the ramps are the adjacent property owner's responsibility. The plow drivers do attempt to carry the snow past the ramp. Melton said he knows it will happen because the snow has to go somewhere, but

**RECORD OF PROCEEDINGS  
OF THE GOVERNING BODY  
CITY OF GARDNER, KANSAS**

Page No. 2020 - 4  
January 6, 2020

he wanted to make sure they understand that it's the property owner's responsibility even though they've cleared it already. Director Kramer said it's no different than a driveway.

Director Powell shared that the Business and Economic Development Department closed out the year with 1,175 total permits, which is more than double the previous year. In addition, they had 157 new home permits. It was a very productive year from a construction point of view. Relating to the map and boundaries adopted earlier this evening, three of those new areas are new subdivision areas. In addition, there is a large apartment complex that starting up on 167<sup>th</sup> Street. It's going to be a very busy construction season from a housing point. The city is expecting some commercial development on S. Gardner Rd, and along with some major road projects planned, it's going to be difficult at times to get around town. He asks the public for their patience while these improvements are in the works. It will be better when they are done. If the weather holds, some of these projects could begin quickly.

Director Bruce said they are working on getting seasonal staff on board. Applications open February 1. Mayor Shute invited the young people looking for summer jobs to come to City Hall and fill out an application. Director Bruce reminded council that they must be 14 or older.

Director Garcia said that Miami Co Commission met on December 27 regarding Hillsdale annexation. Staff and Burns & McDonnell attended the hearing and presented their reason for the annexation. Three Miami Co residents spoke against the annexation and one spoke against both the annexation and plant expansion. The public hearing will remain open until January 8, and then there should be a final decision made on January 15.

City Administrator Pruetting said he and Finance Director Wolff have gone over the budget calendar for the upcoming budget season. He will reach out to council members individually on different topics of interest they have expressed. He also noted there is only one applicant for Gardner You, so staff will start a new PR effort to encourage people who want to know how city government works to get involved. Mayor Shute suggested involving high school students. It's training on city government and younger folks would benefit from it. He said staff should reach out to the school district and have them promote it with their government curriculum. City Administrator Pruetting also extended his thanks to Director Kramer and Director Bruce and Codes Enforcement Officer Bicknell for their work on snow removal. The best approach is compliance and Officer Bicknell did a great job of reaching out to property owners to get them on board. Next time, they'll see a better result. Mayor Shute also thanked Bicknell for her diligence. It's difficult to serve the notices, but she did a good job.

Councilmember Melton stated he's excited about what's going to happen in 2020. It will be an awesome year, and will catch the attention of the metro.

Councilmember Gregorcyk wished everyone a happy new year. There are some great things to come for our community.

Mayor Shute thanked Parks and Public Works staff for their amazing work on snow removal, especially on day two of snow and slush. He was driving elsewhere and it was difficult, but he didn't have those difficulties when he got to Gardner because of staff working hard to get the salt down. The city has a lot of big things coming this year, and he's looking forward to seeing what the next 12 months holds for the community.

**EXECUTIVE SESSION**

**ADJOURNMENT**

There being no further business to come before the Council, on a motion duly made by Councilmember Gregorcyk and seconded by Councilmember Winters the meeting adjourned at 7:24 p.m.

---

City Clerk

INVOICE NO	SEQ#	VENDOR NAME	VOUCHER NO	P.O. NO	BNK CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0004287	00	AMERICAN FIDELITY - SUPPLEMENTAL	000596		00 01/03/2020	721-0000-202.03-07	CONTRIBUTIONS	EFT:	7,636.08
D106357									
0004301	00	AMERICAN FIDELITY ASSURANCE CO	000596		00 01/03/2020	721-0000-202.03-11	VENDOR TOTAL *	.00	7,636.08
2058025							CONTRIBUTIONS	EFT:	1,549.98
0001986	00	ANIXTER, INC.	PI0546	007223	00 12/20/2019	501-4130-441.52-25	VENDOR TOTAL *	.00	1,549.98
4467487-00							LED STREET LIGHTS	EFT:	5,465.98
0001045	00	BUSTAMANTE, YOLANDA A	000614		00 01/03/2020	001-1330-413.31-15	VENDOR TOTAL *	.00	5,465.98
0019							TRANSLATION/INTERPRET.	2,100.00	
0000429	00	CINTAS FIRE PROTECTION					VENDOR TOTAL *	2,100.00	
5015523356							MONTHLY BILLING	EFT:	56.96
5015523356							MONTHLY BILLING	EFT:	56.96
0001656	00	COHORST ENTERPRISES INC.	PI0540	007202	00 11/18/2019	117-3120-431.62-05	VENDOR TOTAL *	.00	113.92
1							CONSTRUCTION	EFT:	33,164.64
0003481	00	DPC INDUSTRIES INC	PI0542	006991	00 12/18/2019	521-4220-442.52-13	VENDOR TOTAL *	.00	33,164.64
817003190-19							CHEMICALS	EFT:	643.00
0002511	00	ENRIGHT LAWNS, INC	000596		00 01/03/2020	603-3150-431.31-15	VENDOR TOTAL *	.00	643.00
23359							SNOW REMOVAL	EFT:	2,450.00
23316							SNOW REMOVAL	EFT:	475.00
0000028	00	GARDNER NEWS	000596		00 01/03/2020	001-1150-411.47-01	VENDOR TOTAL *	.00	2,925.00
1219018							RESOLUTION	EFT:	109.25
0001368	00	HAROLD, LLOYD	000603		00 01/03/2020	531-4320-443.52-12	VENDOR TOTAL *	.00	109.25
1269							MIXER FOR BULL CREEK	EFT:	3,310.00
0002095	00	HDR ENGINEERING, INC	PI0544	007153	00 12/06/2019	001-3130-431.31-10	VENDOR TOTAL *	.00	3,310.00
1200233778							PROFESSIONAL SERVICES	EFT:	105.69
0003444	00	HILLSDALE AREA WATER COOP	PI0003	007207	00 12/01/2019	521-4220-442.52-30	VENDOR TOTAL *	.00	105.69
9102-5							SUPPLIES BULK WATER	619,594.11	
0004776	00	IDEMIA IDENTITY & SECURITY USA					VENDOR TOTAL *	619,594.11	

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0004776	00	IDEMIA IDENTITY & SECURITY USA	00	01/03/2020	001-2110-421.43-02	YEARLY MAINT. SUPPORT	EFT:	2,256.00
126196		000003					.00	2,256.00
0099999	00	KAYLA ANN MARIE BOWEN	00	01/03/2020	001-0000-228.30-00	CASH BOND REFUND	250.00	
092837		000594					250.00	
0004769	00	KRONOS SAASHR, INC	00	01/03/2020	602-1340-413.47-05	MONTHLY BILLING	EFT:	666.88
11544685		000597					.00	666.88
0004822	00	LAW OFFICE OF LAUREN CONRAD	00	01/03/2020	001-1330-413.31-02	COURT APPT ATTY FEES	EFT:	70.80
72166 01		000605					EFT:	30.00
74324 01		000606					EFT:	175.80
09018 01		000607					EFT:	60.00
094946 01		000608					EFT:	120.60
090915 01		000609					EFT:	60.60
69016 75547		000610					EFT:	85.20
76162 01		000611					EFT:	50.40
74096 01		000612					EFT:	120.00
093087 01		000612					EFT:	105.60
094911 01		000612					EFT:	60.60
091303 01		000612					EFT:	40.20
091303 01		000612					EFT:	49.80
090331 01		000612					EFT:	
090331 01		000612					EFT:	
092828 01		000612					EFT:	
093290 01		000612					EFT:	
0004725	00	MCANANY CONSTRUCTION	00	12/23/2019	001-3120-431.52-08	ROADWAY REPAIR	.00	1,221.60
2487		PI0545 007186					EFT:	10,710.00
0004879	00	MKEC ENGINEERING, INC.	00	12/12/2019	117-3130-431.62-07	PROFESSIONAL DESIGN SVC	.00	10,710.00
161723		PI0543 007142					EFT:	12,000.00
0004524	00	NEOFUNDS BY NEOPOST	00	01/03/2020	602-1340-413.44-02	MONTHLY BILLING	.00	12,000.00
12162019		000596					EFT:	1.00
0004932	00	NEOPOST USA	00	01/03/2020	602-1340-413.44-02	MONTHLY BILLING	.00	1.00
57239870		000597					EFT:	203.00
0004589	00	NEXTPAGE, INC.	00	01/03/2020	001-1120-411.47-02	MONTHLY NEWLETTER	.00	203.00
42279		000596					EFT:	1,895.00
0000256	00	OTTAWA COOP	00				.00	1,895.00

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK	EFT, EPAY OR
INVOICE		VOUCHER P.O.		DATE	NO	DESCRIPTION	AMOUNT	HAND-ISSUED
NO		NO						AMOUNT
0000256	00	OTTAWA COOP	00	01/03/2020	521-4220-442.52-09	FUEL	432.18	
448397 12/19		000596	00	01/03/2020	521-4230-442.52-09	FUEL	106.65	
448397 12/19		000596						
0001569	00	PAYCOR, INC	00	01/03/2020	001-1310-413.31-15	PAYROLL SERVICES	538.83	526.03
9397307		000600					CHECK #:	107
0000302	00	PETTY CASH - CITY HALL	00	01/03/2020	001-1310-413.31-15	PAYROLL SERVICES		526.03
09172019		000596						
10112019		000596						
10182019		000596						
10102019		000596						
10312019		000596						
07042019		000595						
09022019		000596						
09022019		000596						
09022019		000596						
09022019		000596						
0001017	00	POWERPLAN	00	01/03/2020	001-3120-431.43-02	WHEEL LOADER REPAIR	156.34	
1270965		000596						
0004829	00	RICHMAN LAW OFFICE	00	01/03/2020	001-1330-413.31-02	COURT APPT ATTY FEES	1,252.22	798.00
226		000612						798.00
0003305	00	RICOH USA INC	00	01/03/2020	602-1340-413.43-02	MONTHLY BILLING	373.49	
5058376797		000597						
0000948	00	ROSE, SHARON	00	01/03/2020	001-1150-411.46-01	MILEAGE REIMBURSEMENT	373.49	
12302019		000596						
0000553	00	SPECIAL OLYMPICS KANSAS	00	01/03/2020	702-6110-461.54-52	S.O. BOCCCE TOURN. FEES	83.94	80.00
11102019		000596						80.00
0004785	00	SUMNERONE, INC	00	01/03/2020	602-1340-413.43-02	MONTHLY BILLING	EFT:	290.73
2388021		000596						283.95
2386450		000596						
0004482	00	SUPERION, LLC	00	12/10/2019	602-1340-413.47-05	MAINTENANCE	-00	574.68
262770		PI0001 007217	00	07/11/2019	602-1340-413.47-05	MAINTENANCE	EFT:	7,441.15
245094		PI0002 007224	00	07/11/2019	602-1340-413.47-05	MAINTENANCE	EFT:	7,224.42



VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0004482	00	SUPERION, LLC						
0000176	00	TIME WARNER CABLE				VENDOR TOTAL *	.00	14,665.57
25113602122019	000597		00	01/03/2020	602-1340-413.40-03	MONTHLY BILLING	114.99	
0000105	00	TYLER TECHNOLOGIES, INC				VENDOR TOTAL *	114.99	
025-281952	000004		00	01/03/2020	602-1340-413.47-05	MONTHLY BILLING	EFT:	200.00
0000781	00	UNITED RENTALS NORTH AMERICA, INC				VENDOR TOTAL *	.00	200.00
176102780-001	000597		00	01/03/2020	521-4230-442.44-02	ROAD CROSSING PROTECTION	EFT:	451.77
0000718	00	UNITED WAY OF GREATER KANSAS CITY				VENDOR TOTAL *	.00	451.77
1993880 12/19	000596		00	01/03/2020	721-0000-202.03-10	CONTRIBUTIONS	EFT:	88.92
0004599	00	WATER RESOURCES SOLUTIONS, LLC				VENDOR TOTAL *	.00	88.92
19-1257	PI0541 006977		00	12/26/2019	001-3130-431.31-10	NPDES ON CALL SVCS	EFT:	721.00
0003221	00	WEX BANK				VENDOR TOTAL *	.00	721.00
62866448	000596		00	01/03/2020	001-2110-421.52-09	MONTHLY BILLING	EFT:	187.12
62866448	000596		00	01/03/2020	001-2120-421.52-09	MONTHLY BILLING	EFT:	3,913.23
62866448	000596		00	01/03/2020	001-2130-421.52-09	MONTHLY BILLING	EFT:	63.30
62866448	000596		00	01/03/2020	001-3116-431.52-09	MONTHLY BILLING	EFT:	66.27
62866448	000596		00	01/03/2020	001-3120-431.52-09	MONTHLY BILLING	EFT:	629.78
62866448	000596		00	01/03/2020	001-3130-431.52-09	MONTHLY BILLING	EFT:	206.62
62866448	000596		00	01/03/2020	001-6120-461.52-09	MONTHLY BILLING	EFT:	304.40
62866448	000596		00	01/03/2020	001-7120-471.52-09	MONTHLY BILLING	EFT:	168.02
62866448	000596		00	01/03/2020	603-3150-431.52-09	MONTHLY BILLING	EFT:	55.78
62866448	000596		00	01/03/2020	604-1320-413.52-09	MONTHLY BILLING	EFT:	425.77
						VENDOR TOTAL *	.00	6,020.29
						HAND ISSUED TOTAL ***		526.03
						EFT/EPAY TOTAL ***		107,577.25
						TOTAL EXPENDITURES *****	624,463.92	108,103.28
						GRAND TOTAL		732,567.20

VEND NO	SEQ#	VENDOR NAME	INVOICE NO	VOUCHER P.O.	BNK CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0004930	00	ACCESSIBLE TECHNOLOGIES, INC	297212	PI0015 007176	00 12/09/2019	531-4320-443.61-04	BLOWER REPLACEMENT	EFT:	185,755.20
							VENDOR TOTAL *	.00	185,755.20
0000350	00	AFFINIS CORP.	7596	PI0008 006982	00 12/31/2019	130-3130-431.62-04	CONSULTING SERVICES	EFT:	1,397.50
							VENDOR TOTAL *	.00	1,397.50
0004340	00	ALL CITY MANAGEMENT SERVICES INC	65715	000624	00 01/10/2020	001-2110-421.31-15	CROSSING GUARD CONTRACT	EFT:	2,690.00
							VENDOR TOTAL *	.00	2,690.00
0000055	00	ALPHA-OMEGA GEOTECH, INC.	37916	000617	00 01/10/2020	401-6120-461.62-23	CONCRETE TESTING	EFT:	2,856.00
37956				000617	00 01/10/2020	401-6120-461.62-23	CONCRETE TESTING	EFT:	1,833.50
							VENDOR TOTAL *	.00	4,689.50
0000056	00	AMERICAN EQUIPMENT CO.	36724	000617	00 01/10/2020	001-3120-431.52-16	SNOW PLOW CUTTING EDGES	EFT:	3,687.14
							VENDOR TOTAL *	.00	3,687.14
0001986	00	ANIXTER, INC.	4430095-06	000617	00 01/10/2020	501-4130-441.52-31	LINE HARDWARE	EFT:	75.87
4437101-01				000617	00 01/10/2020	501-4130-441.52-31	LINE HARDWARE	EFT:	570.47
4467329-01				000617	00 01/10/2020	501-4130-441.52-02	LINE CREW TOOLS	EFT:	498.66
							VENDOR TOTAL *	.00	1,145.00
0001366	00	APAC KANSAS, INC	8001830731	000644	00 01/10/2020	001-3120-431.47-38	SPOILS	EFT:	71.50
							VENDOR TOTAL *	.00	71.50
0002764	00	APPLIED CONCEPTS	S241360	000617	00 01/10/2020	001-2120-421.52-20	RADAR	EFT:	3,454.00
							VENDOR TOTAL *	.00	3,454.00
0003327	00	ASCAP	500734769	000007	00 01/10/2020	001-6105-461.46-02	PUBLIC MUSIC LICENSE	363.00	
							VENDOR TOTAL *	363.00	
0000295	00	ASPLUNDH TREE EXPERT CO. INC.	76X15819	PI0012 007058	00 11/01/2019	501-4130-441.31-15	TREE TRIMMING PROGRAM	EFT:	4,043.20
81P98719				PI0013 007058	00 12/27/2019	501-4130-441.31-15	TREE TRIMMING PROGRAM	EFT:	2,021.60
							VENDOR TOTAL *	.00	6,064.80
0000572	00	AUTOMATED INFO MAPPING SYS	32039-32041	000008	00 01/10/2020	602-1340-413.47-05	2020 DATA ACCESS LICENSE	EFT:	4,187.30
							VENDOR TOTAL *	.00	4,187.30
0002847	00	BLACK HILLS ENERGY	01022020	000023	00 01/10/2020	501-4120-441.31-15	MONTHLY BILLING	EFT:	2,511.60

VEND NO		SEQ#	VENDOR NAME		BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK	EFT, EPAY OR
INVOICE	NO		VOUCHER P.O.	NO	DATE	NO	DESCRIPTION	AMOUNT	AMOUNT	HAND-ISSUED
-----										
0002847	00		BLACK HILLS ENERGY							
0002420	00		BRENNTAG MID-SOUTH, INC				VENDOR TOTAL *	.00		2,511.60
BMS476410		000024	00	01/10/2020		521-4220-442.52-13	CHEMICALS	EFT;		770.00
0099999	00		BRITTNEY CAMPBELL				VENDOR TOTAL *	.00		770.00
2001924.002		000006	00	01/10/2020		001-0000-347.11-00	SENIOR BLDG DEPOSIT	85.00		
0001834	00		C & C GROUP				VENDOR TOTAL *	85.00		
30738		000025	00	01/10/2020		501-4110-441.31-15	SECURITY ALARM MONITORING	EFT;		480.00
30737		000026	00	01/10/2020		501-4110-441.31-15	SECURITY ALARM MONITORING	EFT;		480.00
0004443	00		CATCH IT WILDLIFE AND PEST CONTROL				VENDOR TOTAL *	.00		960.00
33759		000617	00	01/10/2020		501-4130-441.31-15	PEST CONTROL	1,000.00		
0000001	00		CENTURYLINK				VENDOR TOTAL *	1,000.00		
313680665	1/20	000009	00	01/10/2020		001-6110-461.40-03	CP PHONES	61.98		
313823146	1/20	000034	00	01/10/2020		521-4220-442.40-03	MONTHLY BILLING	51.52		
313014430	1/20	000034	00	01/10/2020		521-4220-442.40-03	MONTHLY BILLING	348.36		
313440714	12/19	0000617	00	01/10/2020		551-4520-445.40-03	MONTHLY BILLING	251.02		
0004117	00		CENTURYLINK BUSINESS SERVICES				VENDOR TOTAL *	712.88		
1483069209		000620	00	01/10/2020		602-1340-413.40-03	MONTHLY BILLING	1,333.23		
0000429	00		CINTAS FIRE PROTECTION				VENDOR TOTAL *	1,333.23		
5015522356		000596	00	01/03/2020		521-4220-442.31-15	MONTHLY BILLING	CHECK #:	14630	56.96-
5015522356		000617	00	01/10/2020		521-4220-442.31-15	MONTHLY BILLING	EFT:		56.96
5015522356		000602	00	01/03/2020		531-4320-443.31-15	MONTHLY BILLING	CHECK #:	14630	56.96-
0001643	00		CITY OF EDGERTON				VENDOR TOTAL *	.00		56.96-
DEC-20		000010	00	01/10/2020		531-4320-443.31-15	WASTEWATER TREATMENT	16,612.85		
0001842	00		CITY OF OLATHE				VENDOR TOTAL *	16,612.85		
190813-07		000642	00	01/10/2020		521-4220-442.31-15	LAB FEES	EFT:		96.00
191119-04		000642	00	01/10/2020		521-4220-442.31-15	LAB FEES	EFT:		96.00
56839		000617	00	01/10/2020		521-4230-442.31-15	LAB TESTING FOR LINE MAIN	EFT:		765.00
56840		000625	00	01/10/2020		531-4320-443.31-15	LAB FEES	EFT:		2,076.00
0002621	00		CLAYCO ELECTRIC CO, INC.				VENDOR TOTAL *	.00		3,033.00
46522		000642	00	01/10/2020		521-4220-442.43-02	REPAIR CLARIFIER	EFT:		315.00

INVOICE NO	SEQ#	VENDOR NAME	VOUCHER P.O. NO	BNK CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0002621	00	CLAYCO ELECTRIC CO, INC.						
0000069	00	COLEMAN EQUIPMENT, INC.				VENDOR TOTAL *	.00	315.00
22416		000617		00 01/10/2020	001-6120-461.43-02	KUBOTA REPAIR	EFT:	472.50
0003481	00	DPC INDUSTRIES INC				VENDOR TOTAL *	.00	472.50
817003191-19	000642	00 01/10/2020			521-4220-442.52-13	CHEMICALS	EFT:	1,140.00
0002825	00	EHLERS				VENDOR TOTAL *	.00	1,140.00
82369		P10016	007228	00 01/06/2020	001-1130-411.31-15	GRATA DEVELOPMENT 2019	EFT:	25,125.00
82156		000617		00 01/10/2020	117-9100-491.75-00	2019E COI	EFT:	8,024.34
82156		000617		00 01/10/2020	130-9100-491.75-00	2019E COI	EFT:	14,975.66
82154		000617		00 01/10/2020	403-9100-491.75-00	2019C COI	EFT:	14,000.00
82155		000617		00 01/10/2020	403-9100-491.75-00	2019D COI	EFT:	19,000.00
0099999	00	EKENSTAM, ERICH				VENDOR TOTAL *	.00	81,125.00
000063041	UT	00 01/03/2020			501-0000-229.00-00	FINAL BILL REFUND	26.84	
0000700	00	EKGFOA				VENDOR TOTAL *	26.84	
01072020JS		000011		00 01/10/2020	001-1310-413.46-02	SCHULZ EKGFOA MEMBERSHIP	50.00	
01072020SD		000012		00 01/10/2020	001-1310-413.46-02	DIAZ EKGFOA MEMBERSHIP	50.00	
01072020NT		000013		00 01/10/2020	001-1310-413.46-02	NT EKGFOA MEMBERSHIP	50.00	
01072020MW		000014		00 01/10/2020	001-1310-413.46-02	WOLFF EKGFOA MEMBERSHIP	50.00	
0003960	00	ELLIOTT EQUIPMENT COMPANY				VENDOR TOTAL *	200.00	
154190		000617		00 01/10/2020	531-4330-443.52-12	REDUCER & VAC TUBE	EFT:	343.00
0004946	00	EVERGY				VENDOR TOTAL *	.00	343.00
4469208877		1219000618		00 01/10/2020	521-4220-442.40-05	MONTHLY BILLING	48.44	
7011930732		1219000617		00 01/10/2020	531-4320-443.40-05	MONTHLY BILLING	39.35	
6466308678		1219000617		00 01/10/2020	531-4320-443.40-05	MONTHLY BILLING	32.10	
0000855	00	EWING IRRIGATION PRODUCTS, INC				VENDOR TOTAL *	119.89	
8860888		000618		00 01/10/2020	001-6120-461.52-01	ICE MELT	419.25	
0002956	00	FASTENAL CO.				VENDOR TOTAL *	419.25	
KSKA350591		000027		00 01/10/2020	501-4120-441.52-12	PARTS FOR SUB #3	EFT:	16.66
KSKA350438		000618		00 01/10/2020	521-4230-442.52-20	20V TRIPD LIGHT	EFT:	420.18
KSKA350436		000618		00 01/10/2020	531-4330-443.52-20	20V TRIPD LIGHT	EFT:	420.18
0000086	00	GALLS, LLC				VENDOR TOTAL *	.00	857.02

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0000086	00	GALLS, LLC	00	01/10/2020	001-2120-421.53-02	PATROL BOOTS - WRIGHT		
014643853		000626	00	01/10/2020	001-2120-421.53-02	BODY ARMOR - WHITE	EFT:	125.00
014654359		000627	00	01/10/2020	001-2120-421.53-02	BODY ARMOR - JOLLY	EFT:	831.96
014654424		000628	00	01/10/2020	001-2120-421.53-02	PATROL BOOTS - MCLAIN	EFT:	831.96
014665077		000028	00	01/10/2020	001-2120-421.53-02	PATROL BOOTS - MCLAIN	EFT:	125.00
0001101	00	GARDNER DISPOSAL SERVICE, INC.	00	01/10/2020	001-6120-461.40-02	VENDOR TOTAL *	.00	1,913.92
01012020		000015	00	01/10/2020	001-6120-461.40-02	MONTHLY BILLING	EFT:	335.00
0003835	00	GENERATION RELEVANT ENTERTAINMENT	00	01/10/2020	001-6110-461.54-51	VENDOR TOTAL *	.00	
1359		000016	00	01/10/2020	001-6110-461.54-51	4TH OF JULY DEPOSIT	850.00	
0001444	00	GFOA	00	01/10/2020	001-1310-413.46-02	VENDOR TOTAL *	850.00	
0263066		000017	00	01/10/2020	001-1310-413.46-02	SCHULZ GFOA MEMBERSHIP	150.00	
0000013	00	HACH COMPANY	00	01/10/2020	521-4220-442.52-12	VENDOR TOTAL *	150.00	
11771633		000642	00	01/10/2020	521-4220-442.52-12	CHEMICALS	EFT:	1,137.42
11771181		000642	00	01/10/2020	521-4220-442.52-12	CHEMICALS	EFT:	951.71
0004720	00	HAMM, INC.	00	01/10/2020	501-4120-441.52-01	VENDOR TOTAL *	.00	2,089.13
290648		000618	00	01/10/2020	501-4120-441.52-01	ROCK FOR GAS LINE	90.00	
0000102	00	ICMA RETIREMENT TRUST - 457	00	01/10/2020	721-0000-202.03-04	VENDOR TOTAL *	90.00	
258729		000036	00	01/10/2020	721-0000-202.03-04	CONTRIBUTIONS	CHECK #:	101
0000714	00	INDEPENDENT SALT CO	00	01/10/2020	001-3120-431.52-16	VENDOR TOTAL *	.00	7,530.87
148724-IN		PI0010 007129	00	12/23/2019	001-3120-431.52-16	DE-ICING SALT	2,999.72	
148784-IN		PI0011 007129	00	12/23/2019	001-3120-431.52-16	DE-ICING SALT	8,948.63	
0004271	00	IRON MOUNTAIN INC	00	01/10/2020	001-1150-411.31-15	VENDOR TOTAL *	11,948.35	
CGWS980		000618	00	01/10/2020	001-1150-411.31-15	SHREDDING SERVICES	EFT:	81.78
0000108	00	K.C. BOBCAT INC	00	01/07/2020	001-3120-431.52-08	VENDOR TOTAL *	.00	81.78
1554271		000621	00	01/07/2020	001-3120-431.52-08	COLD MILL PLANNER	.35	
1554271		PI0009 007128	00	12/10/2019	001-3120-431.52-08	COLD MILL PLANNER	13,061.36	
19131424		000618	00	01/10/2020	001-6120-461.43-02	EQUIPMENT REPAIR	2,701.56	
0003692	00	KANSAS CITY AREA DEVELOPMNT COUNCIL	00	01/01/2020	001-1110-411.46-02	VENDOR TOTAL *	15,763.27	
48133000		PI0014 007229	00	01/01/2020	001-1110-411.46-02	ANNUAL MEMBERSHIP	10,500.00	
0000487	00	KANSAS DEPT OF REVENUE	00			VENDOR TOTAL *	10,500.00	



VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0000487	00	KANSAS DEPT OF REVENUE	00	01/10/2020	001-1150-411.48-01	STATE CMB FEE	25.00	
01092020		000033				VENDOR TOTAL *	25.00	
0002671	00	KANSAS GAS SERVICE	00	01/10/2020	001-2110-421.40-04	MONTHLY BILLING	117.18	
10588591	12/19000630	00	01/10/2020	001-6120-461.40-04	MONTHLY BILLING	361.53		
10596227	12/19000618	00	01/10/2020	501-4130-441.40-04	MONTHLY BILLING	645.27		
161419073	12/19000618	00	01/10/2020	551-4520-445.40-04	MONTHLY BILLING	309.00		
105901600	12/19000629	00	01/10/2020					
0002806	00	KANSAS GOLF AND TURF, INC	00	01/10/2020	001-6120-461.43-02	MOWER REPAIR	1,432.98	
02-209934		000618				VENDOR TOTAL *	1,432.98	
0000112	00	KANSAS ONE-CALL SYSTEM, INC.	00	01/10/2020	001-3120-431.31-15	STORMWATER LOCATING SVC		948.06
9120242	000644	00	01/10/2020	501-4130-441.40-06	LOCATES			948.06
9120645	000618	00	01/10/2020	501-4130-441.40-06	LOCATES			123.60
9120243	000642	00	01/10/2020	501-4130-441.40-06	LOCATES			24.00
9120242	000644	00	01/10/2020	501-4130-441.40-06	ELECTRIC LOCATING SERVICE			10.80
9120242	000644	00	01/10/2020	521-4230-442.40-06	WATERLINE LOCATING SVC			123.60
9120244	000631	00	01/10/2020	531-4320-443.31-15	LOCATES			123.60
9120242	000644	00	01/10/2020	531-4330-443.40-06	SEWERLINE LOCATING SVC			31.20
								123.60
0000208	00	KDHE - BUREAU OF WATER	00	01/10/2020	521-4220-442.46-02	WASTEWATER PERMIT	.00	560.40
12272019		000029				VENDOR TOTAL *	320.00	
0000319	00	KERIT	00	12/12/2019	601-1230-412.45-01	KERIT WORK COMP 2020	320.00	
2020-1		PI0005				VENDOR TOTAL *	EFT:	79,171.00
0001626	00	KMEA GRDA OPERATING ACCT	00	01/10/2020	501-4120-441.41-01	MONTHLY BILLING	.00	79,171.00
GRDA-GD-20-02		000018				VENDOR TOTAL *	EFT:	188,846.20
0003399	00	KMEA WAPA OPERATING FUND	00	01/10/2020	501-4120-441.41-01	MONTHLY BILLING	.00	188,846.20
WAPA-GA-20-01		000030				VENDOR TOTAL *	EFT:	5,683.57
0002489	00	KPERS	00	01/10/2020	721-0000-202.03-01	010220 PAY PERIOD	.00	5,683.57
1519867		000037				VENDOR TOTAL *	CHECK #:	40,353.41
0003568	00	KPERS RETIREMENT	00	01/10/2020	721-0000-202.03-03	010220 PAY PERIOD	.00	40,353.41
1519869		000038				VENDOR TOTAL *	CHECK #:	583.44
0002490	00	KPF	00			VENDOR TOTAL *	.00	583.44

VEND NO	SEQ#	VENDOR NAME	ACCOUNT	ITEM	CHECK #	CHECK	EFT, EPAY OR
INVOICE		VOUCHER P.O.	NO	DESCRIPTION	AMOUNT	AMOUNT	HAND- ISSUED
NO		NO	NO				AMOUNT
0002490	00	KPF	721-0000-202.03-02	010220 PAY PERIOD	113		29,533.08
1519906		000039					
0004937	00	LAN-TEL COMMUNICATIONS SERVICES	117-3120-431.62-05	VENDOR TOTAL *	.00		29,533.08
2		PI0006 007204 00 01/06/2020	117-3120-431.62-05	SALES TAX-CONCRETE	EFT:		120,694.05
2		PI0007 007205 00 01/06/2020	117-3120-431.62-05	BOND-CONCRETE	EFT:		50,267.25
0099999	00	LARRY BAIR EXCAVATING	501-0000-229.00-00	VENDOR TOTAL *	.00		170,961.30
000060081		UT		FINAL BILL REFUND	395.35		
0004949	00	LEGAL RECORD, THE		VENDOR TOTAL *	395.35		
L83876		000618 00 01/10/2020	001-1130-411.47-01	ORDINANCE SUMMARY	150.51		
L83796		000618 00 01/10/2020	001-1150-411.47-01	RESOLUTION	32.79		
L83875		000618 00 01/10/2020	001-1150-411.47-01	ORDINANCE SUMMARY	3.93		
L83873		000618 00 01/10/2020	001-1150-411.47-01	ORDINANCE SUMMARY	3.93		
L83874		000618 00 01/10/2020	001-1150-411.47-01	ORDINANCE SUMMARY	3.93		
0099999	00	MARTINA TINSLEY		VENDOR TOTAL *	195.09		
2001920.002		000616 00 01/10/2020	001-0000-347.11-00	SENIOR BLDG DEPOSIT	60.00		
0004950	00	MATZ, BRITTANY		VENDOR TOTAL *	60.00		
12192019		000617 00 01/10/2020	001-6105-461.46-01	MILEAGE REIMBURSEMENT	41.76		
0001369	00	MID-AMERICA VALVE & EQUIPMENT CO		VENDOR TOTAL *	41.76		
194700		000618 00 01/10/2020	531-4320-443.52-12	CHECK VALVE	EFT:		1,473.55
0003579	00	MID-STATES MATERIALS LLC		VENDOR TOTAL *	.00		1,473.55
88121		000642 00 01/10/2020	521-4230-442.52-12	BASE ROCK	303.06		
88440		000642 00 01/10/2020	521-4230-442.52-12	CRUSHER RUN	197.61		
88121		000642 00 01/10/2020	531-4330-443.52-12	BASE ROCK	303.07		
88440		000642 00 01/10/2020	531-4330-443.52-12	CRUSHER RUN	197.61		
0003197	00	MIDWEST PUBLIC RISK-P & L CONTRIBUT		VENDOR TOTAL *	1,001.35		
PL20190515.37		PI0004 007218 00 05/15/2019	601-1230-412.45-02	MPR PROPERTY & LIABILITY	EFT:		285,439.29
0000294	00	MISC. TAX SECTION, KS DEPT OF REVEN		VENDOR TOTAL *	.00		285,439.29
12312019		000632 00 01/10/2020	521-4210-442.49-01	4Q 2019 CLEAN WATER FEE	9,881.75		
0000130	00	MOBILFONE		VENDOR TOTAL *	9,881.75		
6090464		000644 00 01/10/2020	001-3120-431.40-03	MONTHLY BILLING	EFT:		8.24

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0000130	00	MOBILPHONE	00	01/10/2020	501-4130-441.40-03	MONTHLY BILLING	EFT:	44.25
6090639		000031	00	01/10/2020	521-4220-442.40-03	MONTHLY BILLING	EFT:	36.32
6090464		000644	00	01/10/2020	521-4230-442.40-03	MONTHLY BILLING	EFT:	4.12
6090464		000644	00	01/10/2020	531-4320-443.40-03	MONTHLY BILLING	EFT:	49.76
6090464		000644	00	01/10/2020	531-4330-443.40-03	MONTHLY BILLING	EFT:	4.12
0004783	00	NAGARAJU, SHRUTHI	00	01/10/2020	001-1140-411.46-01	MILEAGE REIMBURSEMENT	42.55	146.81
01082020		000022	00	01/10/2020		VENDOR TOTAL *		
0004932	00	NEOPOST USA	00	01/10/2020	602-1340-413.44-02	MONTHLY BILLING	42.55	135.00
57252506		000619	00	01/10/2020		VENDOR TOTAL *		
0000144	00	O'REILLY AUTOMOTIVE, INC.	00	01/10/2020	501-4130-441.52-12	LIGHT BULBS	EFT:	135.00
0354-134679		000642	00	01/10/2020	501-4130-441.52-09	TRANSMISSION FLUID	EFT:	8.45
0354-134748		000642	00	01/10/2020	501-4130-441.52-12	SHOP STOCK SUPPLIES	EFT:	122.59
0354-134879		000642	00	01/10/2020	501-4130-441.52-04	FILTERS FOR PM TRUCK# 407	EFT:	122.23
0354-136349		000642	00	01/10/2020	501-4130-441.52-04	RETURN FOR CREDIT	EFT:	95.28
0354-136392		000642	00	01/10/2020	501-4130-441.52-04	FILTERS FOR PM TRUCK# 407	EFT:	38.34
0354-136394		000642	00	01/10/2020	501-4130-441.52-02	TELESCOPING MIRROR	EFT:	53.50
0354-136677		000642	00	01/10/2020	501-4130-441.52-12	STOCK SHOP SUPPLIES	EFT:	14.22
0354-136677		000642	00	01/10/2020	501-4130-441.52-12	STOCK SHOP SUPPLIES	EFT:	34.99
0354-136850		000642	00	01/10/2020	501-4130-441.52-12	STOCK SHOP SUPPLIES	EFT:	48.25
0354-136856		000642	00	01/10/2020	501-4130-441.52-12	STOCK SHOP SUPPLIES	EFT:	15.30
0000142	00	OLATHE WINWATER WORKS	00	01/10/2020	521-4230-442.52-31	WATER METER SETTER	.00	476.47
145921 02		000619	00	01/10/2020	521-4230-442.52-31	TEST BALL PLUG	EFT:	730.00
146093 00		000619	00	01/10/2020	521-4230-442.52-12	WATER REPAIR SUPPLIES	EFT:	590.00
146319 00		000619	00	01/10/2020	521-4230-442.52-31	SADDLE	EFT:	3,368.20
146487 00		000619	00	01/10/2020	521-4230-442.52-32	COPPER FOR WATER REPAIRS	EFT:	570.00
146539 00		000619	00	01/10/2020	521-4230-442.52-31	SADDLES FOR WATER REPAIRS	EFT:	365.00
146390 00		000619	00	01/10/2020	521-4230-442.52-31	SADDLES FOR WATER REPAIRS	EFT:	1,520.00
0000220	00	PETTY CASH - POLICE DEPARTMENT	00	01/10/2020	001-2110-421.47-04	REIMBURSE POSTAGE	.00	7,143.20
11062019		000641	00	01/10/2020		VENDOR TOTAL *	6.85	
0004385	00	POMP'S TIRE SERVICE, INC.	00	01/10/2020	521-4230-442.52-04	TRUCK #521 FLAT REPAIR	6.85	150.00
1180035602		000032	00	01/10/2020		VENDOR TOTAL *		
0000149	00	PRAXAIR DISTRIBUTION INC	00	01/10/2020	001-3116-431.44-02	CYLINDER RENTAL	.00	150.00
93799793		000644	00	01/10/2020		VENDOR TOTAL *	EFT:	42.45
0004072	00	PROFESSIONAL ENGINEERING CONSULTANT	00	01/10/2020		VENDOR TOTAL *	.00	42.45



VEND NO	SEQ#	VENDOR NAME	INVOICE NO	VOUCHER P.O. NO	BNK CHECK/DUE DATE	ACCOUNT NO	ITEM DESCRIPTION	CHECK AMOUNT	EFT, EPAY OR HAND-ISSUED AMOUNT
0004072	00	PROFESSIONAL ENGINEERING CONSULTANT	520838	PI0017	007231	00 09/30/2019	551-4520-445.31-15	PROFESSIONAL SERVICES	9,980.00
0004927	00	PROGRESSIVE ELECTRONICS, INC	0142161-IN	000619	00 01/10/2020	401-2120-421.61-03	VENDOR TOTAL *	9,980.00	EFT:
0004198	00	PROTECT YOUTH SPORTS	771588	000019	00 01/10/2020	001-6110-461.47-53	AV UPGRADES CONTRACT	2,783.00	2,783.00
0000150	00	QUILL CORPORATION	3418755	000642	00 01/10/2020	521-4220-442.52-20	VENDOR TOTAL *	271.95	271.95
0001174	00	REDDI SERVICES KS	74397308	000633	00 01/10/2020	531-4320-443.43-02	COACHES BACKGROUND CHECKS	271.95	271.95
0003110	00	REJIS COMMISSION	429313	000634	00 01/10/2020	001-2110-421.31-15	TONER FOR PRINTER	355.95	355.95
0003305	00	RICOH USA INC	5058337407	000619	00 01/10/2020	501-4130-441.43-02	CLEAN OUT CLARIFIER WWTP	5,065.55	5,065.55
0004869	00	RITZ SAFETY, LLC	32085	000619	00 01/10/2020	501-4130-441.53-02	SUBSCRIPTION FEE	90.28	90.28
0000379	00	SCHWAAB, INC.	C061807	000635	00 01/10/2020	001-1150-411.52-20	MONTHLY BILLING	111.08	111.08
0000160	00	SHAWNEE COPY CENTER INC.	119942	000619	00 01/10/2020	001-1140-411.47-02	JACKET	130.40	130.40
0004179	00	SHELTON, BILL ALAN	12172019	000619	00 01/10/2020	551-4520-445.31-15	SIGNATURE STAMP	47.75	47.75
0004159	00	SHRED-IT USA LLC	8128899459	000636	00 01/10/2020	001-2110-421.31-15	CARDS	812.50	812.50
0000161	00	SIGN HERE, INC.					WARNING LABELS	46.40	46.40
							BUSINESS CARDS - JT	46.40	46.40
							VENDOR TOTAL *	397.53	397.53
							SNOW REMOVAL	812.50	812.50
							VENDOR TOTAL *	812.50	812.50
							SHREDDING SERVICES	46.40	46.40
							VENDOR TOTAL *	46.40	46.40

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE	ACCOUNT	ITEM	CHECK	EFT, EPAY OR
INVOICE		VOUCHER P.O.		DATE	NO	DESCRIPTION	AMOUNT	HAND- ISSUED
NO		NO						AMOUNT
0000161	00	SIGN HERE, INC.	00	01/10/2020	551-4520-445.52-20	HANGER ADDRESS CORRECTION	EFT:	157.50
23710		000619				VENDOR TOTAL *	.00	157.50
0004730	00	STANDARD & ASSOCIATES, INC	00	01/10/2020	001-2110-421.31-15	RECRUITMENT TESTING	390.00	
SA000042921		000637				VENDOR TOTAL *	390.00	
0001566	00	STAPLES BUSINESS ADVANTAGE	00	01/10/2020	001-2110-421.52-20	OFFICE SUPPLIES	EFT:	70.74
8056867277		000638			001-2120-421.46-01	OFFICE SUPPLIES	EFT:	60.36
8056921325		000642				VENDOR TOTAL *	.00	131.10
0000373	00	STATE OF KANSAS	00	01/10/2020	117-9100-491.75-00	2019E COI	120.37	
LG-19-002039		000620			130-9100-491.75-00	2019E COI	224.63	
LG-19-002039		000620			403-9100-491.75-00	2019D COI	240.00	
LG-19-002038		000619			403-9100-491.75-00	2019C COI	255.00	
LG-19-002037		000620				VENDOR TOTAL *	840.00	
0004785	00	SUMNERONE, INC	00	01/10/2020	001-3130-431.52-20	INK	EFT:	687.50
2395054		000620			501-4110-441.43-02	MONTHLY BILLING	EFT:	194.56
2390289		000620				VENDOR TOTAL *	.00	882.06
0002012	00	SYSTEMS MANUFACTURING, INC	00	01/10/2020	521-4220-442.43-02	SCALED BELOW GROUND STORA	EFT:	302.04
M2948		000642				VENDOR TOTAL *	.00	302.04
0004352	00	TRANSUNION RISK & ALTERNATIVE DATA	00	01/10/2020	001-2120-421.31-15	MONTHLY BILLING	150.00	
196409-201912-1000639		000617				VENDOR TOTAL *	150.00	
0004951	00	TRICKETT, JOHN	00	01/10/2020	001-3130-431.31-15	CDL LICENSE RENEWAL	26.75	
12122019		000617				VENDOR TOTAL *	26.75	
0004551	00	WASTE MANAGEMENT	00	01/10/2020	001-6110-461.54-51	SOTT TRASH SERVICE	EFT:	700.00
5912043-4858-3		000620				VENDOR TOTAL *	.00	700.00
0003687	00	WATCHGUARD VIDEO	00	01/10/2020	001-2120-421.52-20	BODY CAMERA REPLACEMENT	480.00	
ADVREP177089		000642				VENDOR TOTAL *	480.00	
0004226	00	WATCHMEN SECURITY SERVICES	00	01/10/2020	501-4120-441.31-15	VIDEO SECURITY MONITORING	365.99	
42025		000020				VENDOR TOTAL *	365.99	
0009999	00	WINONA CHRISJOHN						

PREPARED 01/10/2020, 9:00:09  
PROGRAM: GM339L  
CITY OF GARDNER

EXPENDITURE APPROVAL LIST  
AS OF: 01/10/2020 PAYMENT DATE: 01/10/2020

PAGE 10

VEND NO	SEQ#	VENDOR NAME	BNK	CHECK/DUE	ACCOUNT	ITEM	DESCRIPTION	CHECK	EFT, EPAY OR
INVOICE		VOUCHER P.O.		DATE	NO			AMOUNT	HAND-ISSUED
NO		NO							AMOUNT
0099999	00	WINONA CHRISJOHN	00	01/10/2020	001-0000-347.11-00		SENIOR BLDG DEPOSIT	60.00	
2001922.002		000616						60.00	
							VENDOR TOTAL *		77,886.88
							HAND ISSUED TOTAL ***		1,061,234.56
							EFT/EPAY TOTAL ***		1,139,121.44
							TOTAL EXPENDITURES *****	87,243.66	1,226,365.10
							GRAND TOTAL		

## **COUNCIL ACTION FORM**

## **CONSENT AGENDA ITEM NO. 3**

**MEETING DATE:** JANUARY 21, 2020

**STAFF CONTACT:** STEVE SHUTE, MAYOR

---

**Agenda Item:** Consider the appointment of Kacy Deaton to the Planning Commission

**Strategic Priority:** Quality of Life  
Infrastructure and Asset Management

**Department:** Administration

---

### **Staff Recommendation:**

Consider appointing Kacy Deaton to the Planning Commission with a term expiring June 2022.

### **Background/Description of Item:**

The Planning Commission currently has two vacancies. During the week of January 6, 2020, Mayor Shute, Council Vice President Melton, and Councilmember Roberts interviewed two candidates for the vacant positions.

The interview team recommends the appointment of Kacy Deaton to the Planning Commission for a term expiring in June 2022.

### **Suggested Motion:**

Appoint Kacy Deaton to serve on the Planning Commission with a term expiring June 2022.

## COUNCIL ACTION FORM

## CONSENT AGENDA ITEM NO. 4

**MEETING DATE:** JANUARY 21, 2020

**STAFF CONTACT:** STEVE SHUTE, MAYOR

---

**Agenda Item:** Consider the appointment of Eric Hansen to the Planning Commission

**Strategic Priority:** Quality of Life  
Infrastructure and Asset Management

**Department:** Administration

---

### **Staff Recommendation:**

Consider appointing Eric Hansen to the Planning Commission with a term expiring March 2023.

### **Background/Description of Item:**

The Planning Commission currently has two vacancies. During the week of January 6, 2020, Mayor Shute, Council Vice President Melton, and Councilmember Roberts interviewed two candidates for the vacant positions.

The interview team recommends the appointment of Eric Hansen to the Planning Commission for a term expiring in March 2023.

### **Suggested Motion:**

Appoint Eric Hansen to serve on the Planning Commission with a term expiring March 2023.

## COUNCIL ACTION FORM

## CONSENT ITEM NO. 5

**MEETING DATE:** JANUARY 21, 2020

**STAFF CONTACT:** MATTHEW WOLFF, FINANCE DIRECTOR

---

**Agenda Item:** Consider authorizing an agreement with the Southwest Johnson County Economic Development Corporation

**Strategic Priority:** Promote Economic Development

**Department:** Finance

---

**Staff Recommendation:**

Staff recommends approving an agreement with the Southwest Johnson County Economic Development Corporation and authorizing distribution of funds.

**Background/Description of Item:**

On Dec 17, 2018, the City Council authorized the Mayor to execute an agreement with the Southwest Johnson County EDC. The one-year agreement provided funding of \$80,000 to the EDC for economic development services for 2019.

The proposed agreement for 2020 increases the funding amount from \$80,000 to \$90,000. The EDC's \$90,000 budget request was included in the approved 2019-2020 budget. The EDC has worked with City staff to develop a work plan for 2020 (see attachment).

Greg Martinette, President and CEO of Southwest Johnson County EDC, will provide a presentation at the meeting on the EDC's accomplishments and work plan.

**Financial Impact:**

Funding for the EDC will come from transient guest tax revenue and the \$90,000 for 2020 was included in the approved 2019-2020 budget. The City shall pay the EDC the sum of \$90,000, payable at the rate of \$22,500 by the last day of the months of January, April, July, and October.

**Attachments included:**

- Southwest Johnson County EDC Agreement
- Southwest Johnson County EDC 2020 Work Plan

**Suggested Motion:**

Authorize the Mayor to execute an agreement with Southwest Johnson County Economic Development Corporation for economic development services for one additional year, ending December 31, 2020.

## AGREEMENT

THIS CONTRACT FOR ECONOMIC DEVELOPMENT SERVICES ("Renewal") is made and entered into as of this 21st day of January, 2020, by and between the City of Gardner, Kansas (the "City") and the Southwest Johnson County Economic Development Corporation (the "EDC"), a Kansas not-for-profit corporation.

The EDC has been organized by representatives of the business community and certain government agencies in and around the greater Southwest Johnson County, Kansas for the purpose of promoting economic growth in the area, and

The City of Gardner desires to procure from the EDC certain services in support of the City's plan for continued economic development and growth.

Therefore, in consideration of the mutual covenants herein contained the parties agree as follows:

1. **SERVICES.** The EDC agrees to provide, through its professional staff, the following services to the City:

a. **MARKETING.** The EDC shall provide support to the City and its staff in marketing the business advantages to potential corporate residents, which support shall include, but is not limited to, market research, accumulation of data concerning prospective tenants, development and distribution of marketing materials, attendance at trade shows, conventions and other events where appropriate market intelligence can be gained, and other activities deemed appropriate by the parties. The EDC shall initiate such activities as it deems appropriate to ensure that the City is well represented in the commercial and industrial real estate market both regionally and nationally.

b. **EXISTING BUSINESS RELATIONS.** The EDC, through its professional staff, shall assist the City and its staff in establishing and maintaining relationships with the existing businesses, to assist those businesses in developing and expanding their facilities at the City and to identify and pursue potential linkages with other businesses who may be candidates for locating to the City. EDC staff shall specifically and purposefully offer its services to each and every business in the City. The EDC shall develop a means of annually contacting the managers of these businesses informing them about the services available through the EDC. EDC staff shall annually survey these businesses to update information about expansion opportunities.

c. **BUSINESS RECRUITMENT.** The EDC shall initiate an aggressive program to identify and recruit new businesses to the City. The EDC shall undertake specific efforts to identify target businesses by industry and by name, to inform those businesses of the opportunities for locating to the City, and to follow-up with qualified prospects in order to prepare development proposals. EDC staff shall participate in joint efforts at the local, regional and state levels to recruit new businesses to the City.

d. **DEVELOPMENT PROPOSALS.** EDC staff shall assist existing businesses and

prospective new businesses in preparing development proposals for the consideration of the City. EDC staff shall become familiar with every aspect of economic development as it applies to the City, and shall develop an understanding of the City's objectives in developing the commercial and industrial sectors of the City. EDC staff shall act as facilitator for prospective business development and shall assist in the presentation of the development proposal to the various jurisdictions having oversight on the development in the City. EDC staff shall strive to develop a "one-stop shopping" approach for development proposals so that a proponent of a project can get virtually all of his or her questions answered by or through the EDC staff.

2. **PERFORMANCE STANDARDS.** The EDC shall establish a plan of work in which the specific activities to be performed by the EDC staff are delineated. Such plan of work shall specifically address the nature and scope of services to be provided to the City and shall establish performance criteria by which the EDC staff's individual performance will be measured. Such plan of work shall be prepared annually and shall be subject to the approval of the City Administrator prior to adoption by the board of directors of the EDC.
3. **COMPENSATION.** In consideration of the services to be provided by the EDC, the City shall pay to the EDC the sum of \$90,000, payable at the rate of \$22,500 on the last day of the months of January, April, July and October. The EDC shall prepare an invoice for each quarterly payment and submit such invoice to the City 30 days prior to the scheduled payment.
4. **TERM.** The term of this agreement shall be for one year commencing on January 21, 2020, and terminating on December 31, 2020.
5. **RENEWAL.** This agreement may be renewed annually by mutual agreement of the parties.
6. **NO AGENCY RELATIONSHIP.** Notwithstanding anything to the contrary contained in this Agreement, the EDC and its employees shall not hold itself or themselves out as, and shall not be, an agent for the City. Neither the EDC nor its employees shall have authority to enter into agreements, leases, or other commitments on behalf of the City.
7. **INDEMNITY.** Each party to this agreement agrees to and shall defend and hold harmless the other for the negligent acts and omissions of such party and its agents, employees and contractors, provided, however, nothing herein shall be construed as a waiver by either party of any limitation of liability provided under the Kansas Tort Claims Act.
8. **INSURANCE.** The EDC shall be solely responsible for obtaining all insurance coverages that it deems necessary or desirable in connection with its business and its obligations under this Agreement, including, but not limited to, general liability, workers compensation, and automobile liability coverage.
9. **TERMINATION.** In the event one party breaches this Agreement the other party may declare this Agreement in default. The non-breaching party may terminate this Agreement upon thirty days notice to the breaching party and this Agreement shall thereafter terminate unless the default is cured within such thirty days.



**10. DUTIES UPON EXPIRATION OR TERMINATION.** It is acknowledged and agreed that in the course of performing its obligations under this Agreement the EDC will compile and prepare certain market information, client lists, data bases and other information relating to the City operations, businesses, prospective businesses, and other information, all of which shall become the property of the City upon the expiration or earlier termination of this Agreement. EDC agrees to deliver to the City all such information not later than the fifth business day following the expiration or earlier termination of the Agreement. All such information shall be kept confidential by EDC following the expiration or earlier termination of this Agreement and EDC agrees not to disclose such information to any third party except as required by law.

**11. FUNDING.** The parties acknowledge that the EDC's ability to fulfill the terms of this Agreement is contingent upon continued funding by its members, and that such funding is currently primarily comprised of voluntary contributions. EDC shall make reasonable efforts to gain continuing financial support through expanded membership and through other funding sources, such as grants-in-aid and service contracts with other agencies and organizations.

**IN WITNESS WHEREOF**, the parties hereto have set their hand this 21st day of January, 2020, at Johnson County, Kansas.

SOUTHWEST JOHNSON COUNTY  
ECONOMIC DEVELOPMENT CORP.

CITY OF GARDNER, KANSAS

\_\_\_\_\_  
President

\_\_\_\_\_  
Mayor

## ***City of Gardner 2020 Scope of Work***

### **Represent Gardner in all internal and external generated prospect activity- \$10K**

- Respond to all prospect inquiries
- Lead prospect site and community tours
- Develop proposal preparations and presentations
- Assist in incentive evaluations and preparations/negotiations
- Provide reports on volume, types and outcomes

#### *Metric*

- Quarterly report detailing activities emailed to Council, CA & E.D.

### **Business Retention & Expansion Program - \$10K**

- Meet with larger Gardner companies to build relationships, identify issues and opportunities
- Alert staff prior to meeting and invite staff to participate if available
- Create and manage Workforce Solutions Roundtable to identify and solve issues pertaining to attracting and retaining a quality workforce

#### *Metric*

- Complete 5 business retention/expansion calls for 2020. There will be outreach to every large business tenant with an emphasis on face-to-face meetings with companies employing more than 50 employees on an annual basis
- Monthly summary included as part of the monthly report
- Utilize social media to promote and profile existing business
- Will be available for sharing on social media and website
- Host bi-annual Workforce Solutions Roundtable meetings
- Post jobs on Facebook Workforce Solutions Page

### **Data Management - \$15K**

- Enhance site data marketing pieces and videos for individual properties within SWJOCO
- Feature available sites/buildings on social media
- Maintain up-to-date data on LocationOne Information System (LOIS)
- Represent SWJOCO on CERl Board of Directors
- Update SWJOCO EDC website and Facebook page for content updates

#### *Metric*

- Update and enhance site marketing pieces for existing sites as needed
- Feature one available site each month; Will be shared on SWJOCO EDC sites

- Provide monthly CERI data to Council, CA & E.D.

### **Business Recruitment and Marketing - \$ 55K**

- Host annual Developer's Expo to promote SWJOCO to development community
  - Bus Tour in 2020
- Present SWJOCO economic development updates to brokerage firms (CBRE, NG Zimmer, etc.)
- Provide community familiarization tours for key partners—KCADC, KDOC, Brokers
- Utilize Every community partners program to assist with program expenses (site videos, website, training)
- Participate with KCADC and/or KDOC on consultant/industry recruitment missions
- Promote retail and service industry opportunities at International Council of Shopping Centers (ICSC) Convention – May
  - ICSC Chicago in 2020
- Market site opportunities to hotel developers
  - Participate in KC Lodging Association event
- Enhance community communication by meeting as needed with public information officers from the City of Gardner and Gardner-Edgerton USD 231

### *Metric*

- Host Developer's Expo in October – Bus Tour of SWJOCO
- 5 quarterly brokerage firm presentation
- Two quarterly familiarization tours for partners or as needed
- Apply for Every funds for three pertinent economic development activities
- Participate on two KCADC recruitment missions and/or local consultant tours
- Attend International Council of Shopping Centers Conventions – Las Vegas, Chicago,
- Host Public Information Officer meetings as needed
- Update & enhance site marketing collateral
- Continue work with Next Move Group and candid Aviation related marketing
  - Attend HAI-HELI Expo in January
  - MRO Expo in April
  - NBAA Expo in October
- Achieve Certified Site designation from BNSF for New Century AirCenter

## COUNCIL ACTION FORM

## CONSENT AGENDA ITEM NO. 6

**MEETING DATE:** JANUARY 21, 2020

**STAFF CONTACT:** MATTHEW WOLFF, FINANCE DIRECTOR

---

**Agenda Item:** Consider authorizing the City Administrator to negotiate and execute an agreement for bond counsel services with Kutak Rock LLP for the period January 21, 2020 through December 31, 2020 with additional one-year options, which renew annually unless terminated by either party.

**Strategic Priority:** Fiscal Stewardship

**Department:** Finance

---

### Staff Recommendation:

Authorize the City Administrator to negotiate and execute an agreement for bond counsel services with Kutak Rock LLP for the period January 21, 2020 through December 31, 2020 with additional one-year options, which renew annually unless terminated by either party.

### Background/Description of Item:

On January 17, 2017, the City Council approved a one-year contract with two additional one-year options with Kutak Rock to provide bond counsel services. It is staff's recommendation that the City enter into a new one-year contract with additional one-year renewal options with Kutak Rock. This approach would provide for continuation of bond counsel services during ongoing negotiations for proposed economic development projects and capital infrastructure investment.

The debt financing fees outlined in Exhibit B of the 2020 agreement are the same as the 2017 agreement. Increases in hourly rates are shown down below:

	<u>Governmental</u>	<u>Non-Governmental</u>
Joe Serrano	<del>\$245</del> <u>265</u>	<del>\$295</del> <u>315</u>
Kathy Peters	<del>\$295</del> <u>305</u>	<del>\$345</del> <u>355</u>
Tyler Ellsworth	<del>\$200</del> <u>240</u>	<del>\$225</del> <u>290</u>
Adrian Serene	<del>\$185</del> <u>200</u>	<del>\$210</del> <u>225</u>

Staff is comfortable with this 1-year agreement (with renewal options) for the reasons below:

- Although Mr. Ellsworth is the City's primary contact, Kutak Rock provides a team approach to their services, ensuring continuity.
- Kutak Rock provides quality services, including providing an opinion of tax-exemption status, drafting development agreements, and assisting with debt issuance and compliance.
- Kutak Rock is well-versed in Kansas public finance law, having served as bond counsel for numerous cities, counties, school districts, public building commissions, and special districts through the state.

- Kutak Rock has in-depth knowledge of the City's finances and ongoing economic development projects.

**Financial Impact:**

- Varies with services requested and size and frequency of debt issuances

**Attachments:**

- 2020 Agreement

**Suggested Motion:**

Authorize the City Administrator to negotiate and execute an agreement for bond counsel services with Kutak Rock LLP for the period January 21, 2020 through December 31, 2020 with additional one-year options, which renew annually unless terminated by either party.

## AGREEMENT FOR BOND COUNSEL SERVICES

This agreement ["Agreement"], dated as of January \_\_, 2020 ["Effective Date"] is by and between the City of Gardner, Kansas, [hereinafter "City"], and Kutak Rock LLP, [hereinafter referred to as "Kutak Rock LLP" or "Consultant"].

### RECITALS

WHEREAS, Kutak Rock LLP represents that it is a duly qualified law firm, experienced in representation of government entities as bond counsel and related services; and

WHEREAS, in the judgment of the City of Gardner, it is necessary and desirable to employ the services of Kutak Rock LLP for bond counsel and related services for both the City of Gardner and the Public Building Commission (PBC);

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

### AGREEMENT

#### 1.0 Term of Agreement.

The term of this Agreement shall be from January \_\_, 2020 to December 31, 2020 with additional, one-year options which shall renew annually unless terminated by either party or unless terminated earlier in accordance with the provisions of Article 2 below. In the event that the services rendered under this Agreement may extend beyond any one budget year, the continuation of this Agreement from year to year is contingent upon the approval of sufficient budgetary authority for the continuation of this Agreement by the governing body of the City in the establishment of its annual budget.

#### 2.0 Termination.

2.1 Termination Without Cause. Notwithstanding any other provision of this Agreement, at any time and without cause, City shall have the right, in its sole discretion, to terminate this Agreement by giving 10 days written notice to Kutak Rock LLP.

2.2 Termination for Cause. Notwithstanding any other provision of this Agreement, should Kutak Rock LLP fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, City may immediately terminate this Agreement by giving Kutak Rock LLP written notice of such termination, stating the reason for termination.

2.3 Delivery of Work Product and Final Payment Upon Termination. In the event of termination, Kutak Rock LLP, within 14 days following the date of termination, shall deliver to City all materials and work product subject to Section 13.1 (Ownership of Documents) and shall submit to City an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.

- 2.4 Payment Upon Termination. Upon termination of this Agreement by City, the City shall pay Kutak Rock LLP the reasonable value of Services rendered by Kutak Rock LLP prior to termination; provided, however, City shall not in any manner be liable for lost profits that might have been made by Kutak Rock LLP had the Agreement not been terminated or had Kutak Rock LLP completed the Services required by this Agreement. In this regard, Kutak Rock LLP shall furnish to City such financial information as in the judgment of the City is necessary for City to determine the reasonable value of the Services rendered by Kutak Rock LLP. In determining the reasonable value of Services, appropriate consideration shall be given to the defective or deficient nature of the Services rendered. The foregoing is cumulative and does not affect any right or remedy that City may have in law or equity.
- 2.5 Authority to Terminate. The City Council has the authority to terminate this Agreement on behalf of the City. In addition, the City Administrator or Finance Department Director, in consultation with the City Attorney, shall have the authority to terminate this Agreement on behalf of the City.
- 3.0 Scope of Services.
- 3.1 Kutak Rock LLP's Specified Services. The Scope of Services to be performed by Kutak Rock LLP under this Agreement is as described in Exhibit A to the Agreement, attached and incorporated by reference.
- 3.2 Performance Standard. Kutak Rock LLP shall perform all work hereunder in a manner consistent with the level of competency and standard of care normally observed by a person or personnel practicing in Kutak Rock LLP's profession. City has relied upon the professional ability and training of Kutak Rock LLP's personnel as a material inducement to enter into this Agreement. Kutak Rock LLP hereby agrees to provide all services under this Agreement in accordance with generally accepted professional practices and standards of care, as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Kutak Rock LLP's work by City shall not operate as a waiver or release of liability. If City determines that any of Kutak Rock LLP's work is not in accordance with such level of competency and standard of care, City, in its sole discretion, shall have the right to do any or all of the following: (a) require Kutak Rock LLP to meet with City to review the quality of work and resolve matters of concern; (b) require Kutak Rock LLP to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of Article 2; or (d) pursue any and all other remedies at law or in equity.
- 3.3 Assigned Personnel.
- 3.3.1 Kutak Rock LLP shall only assign competent personnel to perform work hereunder. In the event that at any time City, in its sole discretion, desires the removal of any person or persons assigned by Kutak Rock LLP to perform work hereunder, Kutak Rock LLP shall remove such person or persons immediately upon receiving written notice from City.

- 3.3.2 With respect to this Agreement, the Kutak Rock LLP shall employ the following key personnel: Joseph D. Serrano, Tyler Ellsworth, Kathryn P. Peters, Adrian E. Serene, and Matthias M. Edrich.
- 3.3.3 In the event that any of Kutak Rock LLP's personnel assigned to perform services under this Agreement become unavailable due to resignation, sickness or other factors outside of Kutak Rock LLP's control, Kutak Rock LLP shall be responsible for timely provision of adequately qualified replacements.
- 3.3.4 Kutak Rock LLP shall designate Tyler Ellsworth as Principal Counsel. As principal for bond counsel services, this person shall be the primary contact with the Services Representative and shall have authority to bind Kutak Rock LLP. So long as the individual named above remains actively employed or retained by Kutak Rock LLP, he/she shall perform the function of principal for bond counsel services, unless otherwise agreed to in writing signed by both parties. Kutak Rock LLP will supply a direct name, phone number and email and will notify the City if this contact information changes during the contract period.
- 3.3.5 City shall designate Matt Wolff, Finance Director, as the Services Representative to represent the City in coordinating all bond counsel related services with Kutak Rock LLP, with authority to transmit instructions and define policies and decisions of City. The written consent of the Department Director, and if applicable, City Administrator and/or Governing Body, shall be required to approve any increase in Services cost as defined in Exhibit B.

#### 4.0 Time of Performance.

The services described herein shall be provided during the period, or in accordance with the schedule, set forth in the Scope of Services.

#### 5.0 Payment.

- 5.1 Payment shall be made by City only for services rendered and upon submission of a payment request upon completion and City approval of the work performed as defined in Exhibit B. In consideration for the full performance of the services set forth in Exhibit A, City agrees to pay Kutak Rock LLP pursuant to rates stated in Exhibit B to this Agreement, attached and incorporated by reference.
- 5.2 Kutak Rock LLP shall bill City for all work performed. The bill submitted by Kutak Rock LLP shall itemize the work for which payment is requested. City agrees to pay Kutak Rock LLP within thirty (30) days of approval. Kutak Rock LLP agrees to submit herewith such financial information as shall be required by City to enable the City to properly report such payments as required by state or federal law.
- 5.3 All invoices should be sent to Finance Director Matt Wolff, 120 E. Main, Gardner, KS 66030 or by email at [mwolff@gardnerkansas.gov](mailto:mwolff@gardnerkansas.gov).
- 5.4 Right to Withhold Payment. City may decline to make payment, may withhold funds, and, if necessary, may demand the return of some or all of the amounts previously paid to Consultant, to protect City from loss because of:



- 1) Defective Work not remedied by Consultant nor, in the opinion of City, likely to be remedied by Consultant;
- 2) Claims of third parties against City or City's property;
- 3) Failure by Consultant to pay Subcontractors or others in a prompt and proper fashion;
- 4) Evidence that the balance of the Work cannot be completed in accordance with this Agreement for the unpaid balance of the Contract Price;
- 5) Evidence that the Work will not be completed in the Contract Time required for substantial or final completion;
- 6) Persistent failure to carry out the Work in accordance with this Agreement;
- 7) Damage to City or a third party to whom City is, or may be, liable

#### 6.0 Cash Basis and Budget Laws.

The right of the City to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the City shall at all times stay in conformity with such laws, and as a condition of this Agreement the City reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws, or if mill levy funds generated are less than anticipated.

#### 7.0 Indemnification.

To the fullest extent permitted by law, with respect to the performance of its obligations in this Contract or implied by law, Kutak Rock LLP agrees to indemnify City, and its agents, servants, and employees from and against any and all claims, damages, and losses arising out of personal injury, death, or property damage, caused by the negligent or intentional acts, errors, or omissions of Kutak Rock LLP. Kutak Rock LLP shall also pay for City's reasonable attorneys' fees, expert fees, and costs incurred in the defense of such a claim.

#### 8.0 Insurance.

8.1 The Consultant shall procure and maintain, at its sole expense, throughout the duration of this Agreement, insurance of such types (on an occurrence basis unless otherwise agreed to) and in at least such amounts as required herein (and not less than as required in any bid documents or other contract documents), from an insurance company licensed to do business in the State of Kansas, the following insurance coverages as may be necessary to protect the Consultant and the City and agents of the City against all hazards or risks of loss as hereinafter specified:

- ☐ Workers' Compensation and Employer's Liability - Demonstrate compliance with K.S.A. 44-532(b) including maintenance of insurance providing the statutory limits under the Kansas Workers Compensation Act; the Consultant shall also be protected against claims for injury, disease, or death of employees, which, for any reason, may not fall within the provisions of a worker's compensation law. This policy shall include an "all states" endorsement.

- Commercial General Liability for bodily injury and property damage liability claims arising from the injuries to members of the public or damage to property of others arising out of any act or omission of the Consultant or its agents, employees or Subcontractors with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. The property damage liability coverage shall contain no exclusion relative to blasting, explosion, and collapse of building or damage to underground property and/or facilities.;
- Commercial Automobile Liability for bodily injury and property damage with limits of not less than \$1,000,000 each accident for all owned, non-owned and hired automobiles.
- Professional Liability - The Consultant shall maintain Professional Liability insurance in an amount not less than \$500,000, and shall provide the City with certification thereof.

8.2 The City shall be a named insured on such policies but shall not be a named insured on the Professional Liability policy. Satisfactory certificates of insurance shall be filed with the City prior to starting any work on this Contract. Kutak Rock LLP shall provide timely notice to the City in the event of any cancellation of, material change in, or failure to renew of any relevant insurance policy.

8.3 Industry Ratings - The City will only accept coverage from an insurance carrier who offers proof that it:

- 1) Is licensed to do business in the State of Kansas;
- 2) Carries a Best's policyholder rating of A or better;

AND

- 3) Carries at least a Class X financial rating.

OR

Is a company mutually agreed upon by the City and Consultant.

#### 9.0 Conflict of Interest.

Kutak Rock LLP covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Kutak Rock LLP further covenants that in the performance of this Agreement no person having any such interests shall be employed.

#### 10.0 Nondiscrimination.

Consultant must comply with the Kansas Act Against Discrimination and if applicable, execute a Certificate of Nondiscrimination and Affirmative Action as provided in K.S.A. §44-1030. The Consultant further agrees that the Consultant shall abide by the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans with Disabilities Act (42 U.S.C. 1201 et seq.) as well as all other

federal, state and local laws, ordinances and regulations applicable to this project and to furnish any certification required by any federal, state or local governmental agency in connection therewith.

11.0 Facilities and Equipment.

Kutak Rock LLP shall furnish at its own cost and expense all labor, tools, equipment, materials, transportation, and any other accessories, services and facilities required to provide services as designated, described in accordance with this Agreement, including any attached exhibits and any addendums to this Agreement. The City expressly denies responsibility for or ownership of any item purchased until the same is delivered to and accepted by the City.

12.0 Accessibility.

Consultant will comply with the Rehabilitation Act of 1973, as amended, Section 504, which prohibits discrimination against handicapped persons in employment services, participation and access to all programs receiving federal financial assistance. Consultant shall also comply with applicable requirements with the Americans with Disabilities Act (ADA), as amended, which is a federal anti-discrimination statute designed to remove barriers which prevent qualified individuals with disabilities from enjoying equal treatment by state and local governments and their agencies in employment practices and accessibility in public services and programs.

13.0 Records, Ownership and Inspection.

13.1 Ownership of Documents.

All documents prepared by Consultant in the performance of this Agreement, although instruments of professional service, are and shall be the property of City, whether the project for which they are made is executed or not.

13.2 Open Records.

In recognition of the City's obligations under the Kansas Open Records Act ("KORA"), Consultant acknowledges that this Agreement along with any reports and/or records provided pursuant to this Agreement are public documents and are subject to disclosure under KORA.

13.3 Maintenance of Records.

Except as otherwise authorized by the City, Consultant shall retain such documentation for a period of three (3) years after receipt of final expenditure report under this contract, unless action, including but not limited to litigation or audit resolution proceedings, necessitate maintenance of records beyond this three (3) year period.

14.0 Independent Contractor.

It is the express intent of the parties that this Contract shall not create an employer-employee relationship. Employees of Kutak Rock LLP shall not be deemed to be employees of the City and employees of the City shall not be deemed to be employees of Kutak Rock LLP. Kutak Rock LLP and the City shall be responsible to their respective employees for all salary and benefits. Neither Kutak Rock LLP's employees nor the City's employees shall be entitled to any salary, wages, or benefits from the other party, including

but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Kutak Rock LLP shall also be responsible for maintaining worker's compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employee's compensation.

15.0 Compliance with Laws.

15.1 Kutak Rock LLP shall observe and comply with all applicable federal, state, and local laws, regulations, standards, ordinances or codes and shall be in compliance with all applicable licensure and permitting requirements at all times.

15.2 Pursuant to K.S.A. 16-113, if Kutak Rock LLP does not have a resident agent in the State of Kansas, it shall execute and file "Certificate of Appointment of Process of Agent" with the Clerk of the District Court of Johnson County, Kansas Courthouse. These forms may be obtained at the Office of the Clerk of the District Court. Kutak Rock LLP shall be responsible for the filing fee. This certificate is pursuant to the General Statutes of Kansas, and shall be filed prior to the formal execution of the Contract Documents. Failure to comply with these requirements shall disqualify the Kutak Rock LLP for the awarding of the Contract.

16.0 Assignment.

Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented. The subcontracting, assignment, delegation or transfer of the Services shall in no way relieve Kutak Rock LLP of its primary responsibility for the quality and performance of such Services.

17.0 Confidentiality.

All reports and documents prepared by Kutak Rock LLP in connection with the performance of this Agreement are confidential until released by City to the public. Kutak Rock LLP shall not make any such documents or information available to any individual or organization not employed by Kutak Rock LLP or City without the written consent of City before any such release.

18.0 Notices.

All notices hereunder shall be given in writing and sent as follows:

To City: Matt Wolff, Finance Director  
City of Gardner  
120 E. Main, Gardner, KS 66030

To Kutak Rock LLP: Tyler Ellsworth  
Kutak Rock LLP  
2300 Main Street, Suite 800  
Kansas City, MO 64108

19.0 Amendments.

19.1 This document represents the entire and integrated agreement between City and Kutak Rock LLP and supersedes all prior negotiations, representations, and agreements, either written or oral.

19.2 This document may be amended only by written instrument, signed by both City and Kutak Rock LLP.

20.0 No Third Party Beneficiaries.

City and Kutak Rock LLP specifically agree that this Agreement is not intended to create any third party beneficiary relationship nor to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement; the duties, obligations and responsibilities of the parties to this Agreement with respect to third parties shall remain as imposed by law.

21.0 Force Majeure.

City shall not be responsible for any delay or failure of performance resulting from fire, flood, other acts of God, vandalism, strike, labor dispute of a third party, domestic or international unrest, delay in receipt of supplies, energy shortage or failure, or any other cause beyond its reasonable control.

22.0 Titles.

The titles in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

23.0 Negotiations.

City and Kutak Rock LLP agree that disputes relative to bond counsel services should first be addressed by negotiations between the parties. If direct negotiations fail to resolve the dispute, the party initiating the claim that is the basis for the dispute shall be free to take such steps as it deems necessary to protect its interests; provided, however, that notwithstanding any such dispute Kutak Rock LLP shall proceed with the work as per this Agreement as if no dispute existed; and provided further that no dispute will be submitted to arbitration without both parties' express written consent.

24.0 Costs and Attorneys Fees.

If on account of a continued default or breach by either party of such party's obligations under the terms of this agreement after any notice and opportunity to cure as may be required hereunder, it shall be necessary for the other party to employ one or more attorneys to enforce or defend any of such other party's rights or remedies hereunder, then, in such event, any reasonable amounts incurred by such other party, including but not limited to attorneys' fees, experts' fees and all costs, shall be paid by the breaching or defaulting party.

25.0 Severability.

If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

26.0 Authority to Enter into Agreement.

Kutak Rock LLP has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective party.

27.0 Incorporation of Appendices.

Appendix A - Scope of Services, Appendix B - Fees, Appendix C - Kutak Rock LLP's Statement of Qualifications are attached hereto and made a part hereof as if fully set out herein.

28.0 Entire Agreement.

This Agreement represents the entire agreement between the Parties hereto and any provision not contained herein shall not be binding upon either party, nor have any force or effect.

29.0 Governing Law and Venue.

This Agreement shall be governed by the laws of the State of Kansas and, in the event of litigation, the sole and exclusive venue shall be within the District Court of Johnson County, Kansas.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this \_\_\_\_ day of January, 2020.

CITY OF GARDNER, KANSAS

KUTAK ROCK LLP

\_\_\_\_\_  
Jim Pruetting, City Administrator

\_\_\_\_\_  
Tyler Ellsworth, Principal Counsel

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Ryan Denk, City Attorney

## EXHIBIT A - SCOPE OF SERVICES



## **EXHIBIT B - FEES**

### **Fee Schedules**

## EXHIBIT C - STATEMENT OF QUALIFICATIONS

## REQUEST FOR QUALIFICATIONS FOR LEGAL SERVICES – BOND COUNSEL

Bond Counsel will be expected to perform the following professional services for the City and the PBC:

- Provide continuous and ongoing legal advice and counsel to the City concerning federal and state laws, rules and regulations related to various methods for financing both private or public improvements
- Provide, upon request, consultation and assistance to the City to train City staff and/or Governing Body in matters related to bond and municipal finance law
- Prepare and process and/or review and comment on all documents necessary or appropriate for the authorization, publication, issuance, sale and delivery of any bonds or other financing instruments
- Conduct and supervise all proceedings necessary or appropriate for the sale and issuance of bonds or other financing instruments, including the execution of documents and the closing of all sales
- Assist City staff, Financial Advisor, or other responsible persons with the preparation of any official statements, preliminary and final, private placement memorandum, or other form of offering statement relating to the issuance of any bonds or other financing instruments
- Obtain all approvals, rulings, permissions and exemptions which are necessary or appropriate for the issuance of any bonds or other financing instruments
- Render any legal opinions necessary or appropriate to ensure that any bonds or other financing instruments are exempt from federal income tax, if applicable; that the federal and state tax and securities laws are complied with; that any security agreements, indentures or other related contracts or documents are valid and enforceable; and that the financing instruments are lawful and eligible for investment, as necessary
- Prepare full and complete bond forms and transcripts as necessary and appropriate
- As needed, assist City staff and Financial Advisor in all communications and consultations with investment rating organizations and underwriter to best represent the interests of the City.
- Offer continuing legal advice, as needed, on issues related to the sale of bonds or other financing instruments, on any issues that arise post-sale, the trustee administration of obligations, and in particular, any actions necessary to ensure that interest will continue to be tax-exempt, if applicable
- Provide other such legal assistance and service as may reasonably be requested or required for the finance of public improvements or related to economic development activities
- Advise on the terms and structure of bonds
- Advise on proper use of bond proceeds and compliance with arbitrage requirements, including performing arbitrage calculations for the City
- Advise on or assist City staff with preparation of documents and material necessary to comply with all applicable "continuing disclosure" requirements for all transactions
- Prepare any required IRS filings
- Attend meetings of the Governing Body or City staff upon request of the City
- The City expects Bond Counsel to respond to routine questions by phone or email that do not require considerable research on a complimentary basis.
- Advise and represent the City in court or any administrative procedure on matters relating to compliance with Federal regulations or state rules as they may arise in context of bond issues

**KUTAK ROCK LLP**  
**FEE SCHEDULE**  
**GENERAL OBLIGATION DEBT**  
**JANUARY \_\_, 2020**

1. Bond Counsel Fee.

<u>Principal Amount</u>	<u>Fee*</u>
Under \$2,000,000	\$7,500
\$2,000,000 to \$5,000,000	\$7,500 + \$1.33 per \$1,000 over \$2,000,000
\$5,000,000 to \$10,000,000	\$11,500 + \$0.75 per \$1,000 over \$5,000,000
\$10,000,000 to \$20,000,000	\$15,250 + \$0.60 per \$1,000 over \$10,000,000
Over \$20,000,000	\$21,250 + \$0.50 per \$1,000 over \$20,000,000

\*Fee based upon aggregate principal amount of transaction, before resizing, without regard to separate series designations, if any.

The fee for temporary notes is \$3.50 per \$1,000 with a minimum fee of \$3,500 for taxable notes and a minimum fee of \$5,000 for tax-exempt notes.

It is anticipated that the above schedule will be followed in most instances, but variations either upward or downward may be appropriate depending on the nature and complexity of the financing and other matters.

2. Disclosure Counsel. If we are called upon to prepare portions of the Official Statement, an additional fee in the range of \$7,500 to \$10,000 will be charged.

3. Out-of-Pocket Expenses. In addition to the fees set forth above, we will request reimbursement for out-of-pocket expenses incurred in connection with each transaction, such as travel expenses, postage, photocopying, long-distance telephone calls, secretarial overtime and similar items.

\* \* \*

**KUTAK ROCK LLP**  
**FEE SCHEDULE**  
**MUNICIPAL REVENUE BONDS**  
**(utility revenue, sales tax and public building commission)**  
**JANUARY \_\_, 2020**

1. Bond Counsel Fee.

<u>Principal Amount</u>	<u>Fee*</u>
Under \$2,000,000	\$7,500
\$2,000,000 to \$5,000,000	\$7,500 + \$1.33 per \$1,000 over \$2,000,000
\$5,000,000 to \$10,000,000	\$11,500 + \$0.75 per \$1,000 over \$5,000,000
\$10,000,000 to \$20,000,000	\$15,250 + \$0.60 per \$1,000 over \$10,000,000
Over \$20,000,000	\$21,250 + \$0.50 per \$1,000 over \$20,000,000

\*Fee based upon aggregate principal amount of transaction, before resizing, without regard to separate series designations, if any.

It is anticipated that the above schedule will be followed in most instances, but variations either upward or downward may be appropriate depending on the nature and complexity of the financing and other matters.

2. Disclosure Counsel. If we are called upon to prepare portions of the Official Statement, an additional fee in the range of \$7,500 to \$10,000 will be charged.

3. Out-of-Pocket Expenses. In addition to the fees set forth above, we will request reimbursement for out-of-pocket expenses incurred in connection with each transaction, such as travel expenses, postage, photocopying, long-distance telephone calls, secretarial overtime and similar items.

\* \* \*

**KUTAK ROCK LLP**  
**FEE SCHEDULE**  
**MUNICIPAL EQUIPMENT LEASES**  
**(Without COPs)**  
**JANUARY \_\_, 2020**

1. Special Counsel Fee.

<u>Principal Amount</u>	<u>Fee</u>
Under \$500,000	\$5,000
\$500,000 to \$1,000,000	\$5,000 + \$4.00 per \$1,000 over \$500,000
\$1,000,000 to \$5,000,000	\$7,000 + \$2.50 per \$1,000 over \$1,000,000
\$5,000,000 to \$10,000,000	\$17,000 + \$1.50 per \$1,000 over \$5,000,000
Over \$10,000,000	\$24,500 + \$1.00 per \$1,000 over \$10,000,000

It is anticipated that the above schedule will be followed in most instances, but variations either upward or downward may be appropriate depending on the nature and complexity of the financing and other matters.

2. Disclosure Counsel. If we are called upon to prepare portions of any placement memorandum, an additional fee in the range of \$5,000 to \$7,500 will be charged.

3. Out-of-Pocket Expenses. In addition to the fees set forth above, we will request reimbursement for out-of-pocket expenses incurred in connection with each transaction, such as travel expenses, postage, photocopying, long-distance telephone calls, secretarial overtime and similar items.

\* \* \*

**KUTAK ROCK LLP**  
**FEE SCHEDULE**  
**MUNICIPAL FACILITIES LEASES**  
**(for land, buildings, other improvements, all without COPs)**  
**JANUARY \_\_, 2020**

1. Special Counsel Fee.

<u>Principal Amount</u>	<u>Fee</u>
Under \$500,000	\$5,000
\$500,000 to \$1,000,000	\$5,000 + \$4.00 per \$1,000 over \$500,000
\$1,000,000 to \$5,000,000	\$7,000 + \$2.50 per \$1,000 over \$1,000,000
\$5,000,000 to \$10,000,000	\$17,000 + \$1.50 per \$1,000 over \$5,000,000
Over \$10,000,000	\$24,500 + \$1.00 per \$1,000 over \$10,000,000

It is anticipated that the above schedule will be followed in most instances, but variations either upward or downward may be appropriate depending on the nature and complexity of the financing and other matters.

2. Disclosure Counsel. If we are called upon to prepare portions of the private placement memorandum, an additional fee in the range of \$7,500 to \$10,000 will be charged.

3. Out-of-Pocket Expenses. In addition to the fees set forth above, we will request reimbursement for out-of-pocket expenses incurred in connection with each transaction, such as travel expenses, postage, photocopying, long-distance telephone calls, secretarial overtime and similar items.

\* \* \*

**KUTAK ROCK LLP**

**FEE SCHEDULE**

**SPECIAL OBLIGATION BONDS, IRBS AND OTHER FINANCINGS**

**501(c)(3)s, IRBs, 63-20s, TIF Bonds, CID Bonds, STAR Bonds and COPs**

**JANUARY \_\_, 2020**

1. Bond Counsel Fee.

<u>Principal Amount</u>	<u>Fee*</u>
Under \$1,000,000	\$18,000
\$1,000,000 to \$5,000,000	\$18,000 + \$2.50 per \$1,000 over \$1,000,000
\$5,000,000 to \$10,000,000	\$28,000 + \$2.00 per \$1,000 over \$5,000,000
\$10,000,000 to \$50,000,000	\$38,000 + \$1.00 per \$1,000 over \$10,000,000
Over \$50,000,000	\$78,000 + \$.75 per \$1,000 over \$50,000,000

\*Plus 20% for federally tax-exempt issues (most IRBs do not include federally tax-exempt bonds, though some small issue manufacturing facilities qualify for both state IRB tax incentives and federal tax exemption). Fee calculated upon principal amount for each separate series of bonds, before any resizing.

It is anticipated that the above schedule will be followed in most instances, but variations either upward or downward may be appropriate depending on the nature and complexity of the financing and other matters.

2. Disclosure Counsel Fee. Our fee for serving as disclosure counsel generally will be 2/3 of the bond counsel fee on the above schedule.

3. Out-of-Pocket Expenses. In addition to the fees set forth above, we will request reimbursement for out-of-pocket expenses incurred in connection with each transaction, such as travel expenses, postage, photocopying, long-distance telephone calls, secretarial overtime and similar items.

\* \* \*



**KUTAK ROCK LLP**

**FEE SCHEDULE**

**HOURLY RATES**

**Routine Questions and Hourly Rates**

**JANUARY \_\_, 2020**

1. Routine Questions.

We will respond to routine questions by phone or email that do not require considerable research on a complimentary basis.

2. Hourly Rates.

For matters requiring considerable research or time, and which are unrelated to a specific financing, our fees will be billed on an hourly basis at the governmental rates set forth below. When such assistance is requested, we will communicate with City staff regarding the anticipated time and fees such assistance may require.

For most economic development matters, and unless otherwise agreed, we anticipate that our time will be billed on an hourly basis at the non-governmental rates set forth below and will be payable pursuant to funding agreements entered into between the City and each developer seeking incentives.

	<u>Governmental</u>	<u>Non-Governmental</u>
Joe Serrano	\$265	\$315
Kathy Peters	\$305	\$355
Tyler Ellsworth	\$240	\$290
Adrian Serene	\$200	\$225

3. Out-of-Pocket Expenses. In addition to the fees set forth above, we will request reimbursement for out-of-pocket expenses incurred in connection with each transaction, such as travel expenses, postage, photocopying, long-distance telephone calls, secretarial overtime and similar items.

\* \* \*

**KUTAK ROCK LLP**

**FEE SCHEDULE**

**ARBITRAGE REBATE AND CONTINUING DISCLOSURE**

**Fees for Arbitrage Rebate Calculations and Continuing Disclosure Filings**

**JANUARY \_\_, 2020**

1. Arbitrage Rebate.

In conjunction with the City's calendaring of critical dates for the payment of arbitrage rebate, we will perform rebate calculations upon request for a flat fee of \$1,500 per calculation.

2. Continuing Disclosure.

In conjunction with the City's calendaring of critical dates for the filing of annual financial and operating data, we will prepare and update the City's annual financial and operating data upon request for a flat fee of \$1,500 per filing, including posting the filing to the MSRB's EMMA website and providing confirmation of filing.

We will prepare event notice filings upon request, or as mutually agreed upon in the case of ratings changes or other events that come to our attention from time to time, for a flat fee of \$400 per filing, including posting the filing to the MSRB's EMMA website and providing confirmation of filing.

\* \* \*

---

---

**STATEMENT OF QUALIFICATIONS FOR  
BOND COUNSEL SERVICES**



---

---

January 2020

SUITE 800  
TWO PERSHING SQUARE  
2300 MAIN STREET  
KANSAS CITY, MO 64108-2416  
816-960-0090  
FACSIMILE: 816-960-0041

# KUTAK ROCK LLP

---

## STATEMENT OF QUALIFICATIONS FOR BOND COUNSEL SERVICES CITY OF GARDNER, KANSAS

---

### 1. Description of the Firm's Public Finance Practice

The following overview describes, in turn, the firm's national public finance practice, other practices supporting public finance and the firm's Kansas public finance practice.

#### **Firm Background**

Kutak Rock LLP is a national firm of more than 525 lawyers with locations in 18 cities.

The firm is a limited liability partnership established under the laws of Nebraska. A 14-member Executive Committee composed of senior partners is responsible for the firm's day-to-day operations.

The firm serves local, regional and national clients in a multidisciplinary practice. We encourage our attorneys to take advantage of the national resources and broad range of expertise the firm offers in order to provide the best legal services possible to our clients.

Kutak Rock has earned a reputation across the United States for providing excellent legal services in a practical, cost-conscious manner. The firm maintains that reputation by fostering an atmosphere in which firm lawyers actively communicate with their clients at the initial stages of each engagement to gain a complete and clear understanding of desired objectives. Attorneys use their broad experience to help clients achieve those objectives in an economical and timely fashion.

The firm maintains expertise in the areas of public finance, general corporate law, corporate finance, real estate, litigation, intellectual property and technology law, labor and employment law, employee benefits law, securitization, tax, tax credits, banking, bankruptcy, health care law, insurance, antitrust, environmental law, federal practice and government relations. The attorneys of Kutak Rock work together in integrated, national practice groups to maintain and enhance their technical expertise and to reinforce and support one another in achieving client objectives.

## **Public Finance Practice**

More than 110 Kutak Rock lawyers devote all or a major portion of their practice to the field of public finance and related aspects of law. The firm has served as bond counsel in more than 12,000 municipal bond issues in all 50 states, the District of Columbia, the Virgin Islands, Guam and Puerto Rico. No opinion of the firm with respect to the tax-exempt status of a bond issue has ever been the subject of any court action.

The firm's national prominence is attributable in part to the large number of subspecialties it maintains within the public finance field. These subspecialties run the gamut of tax-backed and revenue bond debt, including traditional general obligation bond issues, tax and revenue anticipation notes, municipal commercial paper, infrastructure financings (including water, sewer and electric bonds), clean water and drinking water revolving funds, higher education, health care and other 501(c)(3) conduit financings, special district and tax increment bonds, arena and convention center bonds, solid waste project financings, transportation financings (including airport, mass transit, port and toll road bonds), lease financings (including certificates of participation), single-family and multifamily housing bonds, student loan financings and a wide variety of municipal derivative products.

To complement this expertise, Kutak Rock has a 10-member Section 103 Tax Department (including a former IRS official) specializing in federal tax exemption matters and a number of nationally recognized authorities in the application of the federal securities laws to public finance. The Tax Department attorneys meet weekly via conference call to discuss current tax issues and developments as well as to share information obtained from regular interactions with Department of Treasury and IRS personnel. These tax attorneys also regularly handle IRS bond audits—over 300 to date.

The National Public Finance Department is purposefully organized to match this breadth of expertise with the needs of a diverse client base. Consequently, the firm does not limit its practice focus to one particular role. The firm routinely serves as bond counsel, special tax counsel, issuer's counsel, disclosure counsel, underwriter's counsel, placement agent's counsel, counsel to municipal bond insurance companies and to letter of credit banks and as borrower's counsel in conduit financings.

Kutak Rock has been listed among the most active bond counsel firms in the nation in annual industry rankings since such statistics were first made available. Following are national rankings for the firm for recent years as compiled by Refinitiv (formerly Thomson Reuters), the statistician for the public finance industry (rankings based on dollar total):

National Bond Counsel Rankings			
Year	Rank	Number of Issues	Dollar Total
First Three Quarters 2019	3	320	\$11.74 billion
2018	4	369	\$16.20 billion
2017	4	470	\$17.66 billion
2016	4	464	\$16.48 billion
2015	5	412	\$13.33 billion

Issuers for which the firm has served as bond counsel include traditional political bodies such as states, counties, cities and school districts, as well as numerous special-purpose financing authorities such as public power districts, institutions of higher education, state housing finance agencies and student loan agencies.

Kutak Rock has acted as underwriter's counsel for every major national and most regional investment banking firms. With respect to the variety and quantity of financings, in recent years the firm's experience in the role of underwriter's counsel has been unmatched by any law firm. In fact, statistics compiled by Refinitiv show that for the period 1992 through 2018 (cumulatively over the term) *Kutak Rock served as underwriter's counsel in a larger number of public finance issues than any other firm in the country.* Following are Refinitiv's national rankings (based on dollar total) for Kutak Rock as underwriter's counsel for recent years:

National Underwriter's Counsel Rankings			
Year	Rank	Number of Issues	Dollar Total
First Three Quarters 2019	5	184	\$6.82 billion
2018	6	250	\$9.85 billion
2017	7	262	\$11.90 billion
2016	4	287	\$12.73 billion
2015	9	206	\$7.44 billion

The firm's public finance attorneys have also developed an extraordinary expertise in analyzing the SEC's initiatives, such as the recent MCDC Initiative, the municipal advisor rules and Rules 15Ga-1 and 15Ga-2, the conduct of due diligence investigations, the evaluation of information for materiality, the preparation of disclosure documents and the development of disclosure policies and procedures as highly recommended (and effectively required) by the SEC. Following are the firm's national disclosure counsel rankings (based on dollar total) for recent years as compiled by Refinitiv:

National Disclosure Counsel Rankings			
Year	Rank	Number of Issues	Dollar Total
First Three Quarters 2019	9	103	\$3.38 billion
2018	5	125	\$5.47 billion
2017	5	167	\$7.57 billion
2016	4	198	\$8.75 billion
2015	4	138	\$5.23 billion

Kutak Rock attorneys also take pride in their willingness to work with our clients to develop new and inventive approaches to satisfy the needs of our clients. Rather than only being able to replicate what other firms have done before, the firm has gained a reputation for undertaking sophisticated transactions that involve the application of creative approaches to difficult financing problems. In the past 30 years the firm has provided legal services in many financings that *Institutional Investor* magazine and *The Bond Buyer* have recognized as public finance “Deals of the Year.” Most recently, the firm served as bond counsel for the “ESG/Green Financing” of 2018-19, a large “green bond” financing of the Los Angeles County Metropolitan Transportation Authority. For 2016-17, Kutak Rock served as underwriter’s counsel in the Great Lakes Water Authority’s inaugural financing, a large issuance of water system bonds that was named *The Bond Buyer*’s “Midwest Deal of the Year”. The same year, the firm served as bond counsel in the “Small Issuer Deal of the Year,” a water system financing for the County of Missoula, Montana. For 2013-14, *The Bond Buyer* recognized as its “Southwest Deal of the Year” a large mass transit financing for a Colorado issuer in which Kutak Rock served as underwriter’s counsel.

In addition to its highly active National Public Finance Department, the firm has a strong contingent of lawyers who work in real estate, bankruptcy, banking, securities laws, litigation and other areas. These practitioners are available to serve public finance clients of the firm as circumstances require from time to time.

## Tax Expertise

One of Kutak Rock’s greatest strengths is its highly respected tax expertise in the area of tax-exempt financing. Kutak Rock’s 10 Section 103 tax lawyers devote substantially all of their time to tax matters related to tax-exempt financings. This group is involved in hundreds of tax-exempt financings each year. On a daily basis, they interact with issuers, investment bankers, financial advisors, credit providers and lawyers within the firm and in other firms and are frequently in contact with the staff and policy makers at the Internal Revenue Service and the Department of the Treasury.

Every week the members of the Kutak Rock Public Finance Tax Department convene by conference call to discuss current financings in which the firm is involved. Members of the department use this forum to raise unusual or difficult questions concerning the tax implications

of ongoing transactions and to solicit the counsel of their colleagues. By concentrating the expertise of all the firm's tax lawyers in this way, the essential elements of a transaction are more likely to become clarified, and a resolution of the issue is more likely to emerge. The firm's use of a group dynamic has been a highly successful approach to resolve what often appear to be intractable problems.

The group approach also serves to keep the firm's tax attorneys fully coordinated with respect to the firm's articulated positions on tax questions that arise repeatedly.

An excellent indicator of the firm's tax expertise is the number and quality of the bond structures developed by the firm's tax lawyers. Kutak Rock developed the current floating rate tender bond program, convinced the IRS that a swap contract should be integrated with a floating rate bond issue with a resulting fixed "yield," developed a contingent interest structure in which the contractor for a major toll road received contingent interest, and developed numerous refunding techniques replicated by many bond counsel firms.

Members of the Public Finance Tax Department frequently address client questions with regard to private use of bond-financed facilities. The depth and breadth of the group's experience is an important resource for clients who face unpredictable challenges in attempting to make the best use possible of their facilities within the bounds of applicable tax law. The firm's tax lawyers have obtained a number of positive rulings from the IRS on private use matters.

Kutak Rock serves as special tax counsel in bond financings to a number of municipal issuers. In such role the firm provides the requisite tax analysis and renders an opinion as to the tax-exempt status of the bonds being issued. Refinitiv began publishing national rankings for special tax counsel only in 2015. Following are the rankings for Kutak Rock (based on dollar total):

<b>National Special Tax Counsel Rankings</b>			
<b>Year</b>	<b>Rank</b>	<b>Number of Issues</b>	<b>Dollar Total</b>
First Three Quarters 2019	6	10	\$251 million
2018	4	16	\$930 million
2017	3	23	\$1.25 billion
2016	4	21	\$1.25 billion

## **Disclosure Expertise**

As one of the nation's most active firms in the municipal disclosure arena (as evidenced by the firm's consistently high national ranking as disclosure counsel, noted above), Kutak Rock's public finance attorneys have developed an ongoing familiarity with market and regulatory expectations and developments, expertise in the conduct of due diligence investigations, and experience in the evaluation of information for materiality and the SEC-



recommended development of disclosure-related procedures and staff training. The firm regularly advises government officials concerning the preparation of disclosure documents for primary offerings and secondary market continuing disclosure filings, as well as the making of public and private statements relevant to disclosure during press conferences and presentations. Kutak Rock has a concrete, firmwide system in place to monitor and keep abreast of regulatory requirements so that our attorneys and our clients stay informed of regulatory disclosure requirements. Our broad market knowledge and penetration ensures that we can assist our clients to understand regulatory trends, learn quickly of specific developments and be aware of practical developments as they occur across the country.

Clients include a few states where the firm has been specifically appointed as special disclosure counsel for their bond issues, other additional states where our role as bond counsel includes disclosure advice, numerous state agencies, counties, major metropolitan cities, small cities and towns, and numerous special districts.

Kutak Rock regularly submits comments to the SEC and others regarding proposed rules and regulations affecting the municipal market. The firm has closely monitored the guidance of the SEC regarding municipal disclosure and has kept up to date with the SEC's program of heightened scrutiny of municipal issuers. Most recently, the firm identified various issues, and outlined policy and procedural implementation suggestions, in response to the August 20, 2018 release of the amendments to Rule 15c2-12, which added two reportable events effective February 27, 2019. The proposed amendments were in response to complaints by investors and analysts concerning the lack of information about private borrowings by issuers (such as bank lines of credit and leases) and about modifications of the terms or provisions of any type of financial obligation of an issuer. Based on our extensive experience with issuers of all sizes, we knew that the amendments, as proposed, would be very difficult for most issuers to comply with, and (we believed) were much broader than investors and analysts really required (for example, a lease of any size, even for an office copy machine, would have had to be reported). Kutak Rock submitted extensive comments to the SEC, and when the Final Amendments were published they were curtailed in many respects. (Our firm's comments were cited in 14 footnotes to the accompanying SEC commentary, far more than any other commenting law firm.) We then prepared written advice for our clients on both the steps they should follow to implement the new Amendments, as well as technical advice on the terms and nuances of the new Amendments.

Kutak Rock was also intimately involved in the SEC's preceding program, the MCDC Self-Reporting Initiative, assisting many issuers in analyzing whether—and how—to respond, and then representing seven (of the unlucky 72 selected issuers) in negotiating consent orders with the SEC. By virtue of these negotiations, the firm gained valuable insights about the SEC's analysis of the disclosure rules—and both the important, and unimportant, issues.

The role of disclosure counsel in an individual transaction versus an ongoing period of time comprised of related transactions is substantively different. In all transactions, whether the former or the latter, disclosure counsel assists the issuer in complying with securities laws and regulations. However, the role of disclosure counsel in an ongoing relationship extends beyond the transaction to assisting the issuer in implementing procedures, fulfilling secondary market continuing disclosure obligations and assuring itself that at all times, even between transactions, it is in compliance with applicable laws and regulations. In a transactional engagement, the role

is akin to analyzing a snapshot of the issuer's disclosure. In an ongoing relationship, the role is like watching a movie of the issuer's disclosure with continuous footage.

The role of disclosure counsel is especially important at a time when the SEC is expanding its scrutiny of municipal disclosure, as illustrated by recent enforcement actions and inquiries regarding pension disclosure, federal legislation, including the Dodd-Frank Act, rulemaking, such as the expansion of Rule 15c2-12, and statements by SEC staff in various forums to the effect that the SEC is expanding its authority over the municipal markets. While much of the existing authority the SEC and Municipal Securities Rulemaking Board ("MSRB") have over the municipal market runs to underwriters and market participants other than bond issuers, it is important for bond issuers to keep abreast of such regulatory requirements, as they significantly impact bond issuance, and some regulatory requirements are, of course, passed on to bond issuers through contractual mechanisms in bond purchase contracts and elsewhere. Recent SEC actions against municipal officials and their financial advisors underscore the SEC's intentions.

### **Practices Supporting National Public Finance**

In addition to its highly active National Public Finance Department, the firm has a strong contingent of lawyers who work in real estate, bankruptcy, banking, securities laws, litigation and other areas. These practitioners are available to serve public finance clients of the firm as circumstances require from time to time.

***Arbitrage Matters.*** In order to assist issuers to comply with arbitrage rebate requirements, Kutak Rock and its affiliate, Kutak Rock Arbitrage Consulting LLC, have assembled a team of tax attorneys, accountants, financial analysts and other professionals to prepare rebate calculations and deliver opinions. From a mechanical standpoint, Kutak Rock Arbitrage Consulting LLC's rebate determination involves a demanding accounting process. From monthly statements provided by the trustee or issuer, the firm will establish the consolidated investment activity for a particular tax-exempt issue. This process requires a complete understanding of the financial aspects of the transaction and comprehensive review of the underlying legal documents. The process may be reviewed by bond counsel or special tax counsel other than Kutak Rock. Any underpayment of arbitrage rebate adversely impacts not only the taxability of the issuer's bonds but also the issuer's future cash flow. The federal government has revised the rebate rules no fewer than five times since 1986. Taking advantage of benefits permitted by arcane rules in such calculations can often save issuers hundreds of thousands of dollars.

Our arbitrage rebate professionals regularly review rebate calculations performed by others on behalf of our issuer clients, often resulting in significant reductions in the rebate obligations calculated by such other professionals.

This group also has the capacity to perform standard yield calculations and is often called upon to do so in complex transactions such as advance refundings, where complex transferred-proceeds algorithms are dictated by the federal tax laws.

***Audits.*** Kutak Rock has extensive experience in compliance with tax, disclosure and document matters. The firm is regularly retained to represent issuers—and other parties—in tax audits, including bond audits. A Kutak Rock partner in the Washington, D.C. office was formerly an IRS enforcement agent, and the firm regularly calls on his expertise in IRS procedural matters to resolve issues on a quick procedural basis to avoid time-consuming (and costly) resolutions on the merits.

***Bankruptcy.*** The firm has a national bankruptcy practice—both bankruptcy opinions and bankruptcy litigation. In the public finance and corporate practice areas, Kutak Rock has extensive experience representing various parties on bankruptcy and UCC-related matters in complex national and international bond and project financings, securitizations, asset-backed financings, transactions involving bankruptcy-remote entities and similar financings. In connection with this work, the firm’s representation includes the resolution of structuring issues to avoid or isolate certain bankruptcy-related risks and an analysis of security interests and security arrangements. Kutak Rock’s bankruptcy group has represented clients in the structuring, negotiation, closing and post-closing review and surveillance of virtually every type of transaction. The firm also delivers and negotiates bankruptcy opinions regarding nonconsolidation, true sale and preferences, legal opinions on the perfection of security interests under the UCC and other issues important to corporate and public finance transactions. Our bankruptcy group regularly works with, and delivers legal opinions to, rating agencies on bankruptcy and UCC issues as part of our national and international bond and securitization practice.

***Blue Sky.*** An important adjunct to the public finance practice is the firm’s national Blue Sky Department. Blue Sky regulations exist in each of the 50 states, and compliance with these widely varying laws is an essential component to virtually every transaction involving the registration, offering and sale of securities. Although preempted by federal legislation in many instances, in some cases notice filings and payment of filing fees may still be required by certain states, depending on the type of security being issued.

***Economic Development.*** The firm has extensive experience with economic development financing and has represented numerous Kansas municipalities in tailoring incentive packages and negotiating development agreements. This experience includes serving as bond counsel for the issuance of industrial revenue bonds (IRBs) and other special obligation bond issues as well as preparing the proceedings for tax increment financing (TIF), community improvement districts (CIDs), and rural housing incentive districts (RHIDs) under Kansas law.

***Legislative Monitoring.*** The firm maintains a legislative monitoring group which provides clients of the firm and firm lawyers with current, accurate information not available from other sources regarding federal legislative and regulatory actions, with a particular emphasis on information related to changes in the tax law.

The group, whose members are resident in Washington, D.C., keep state and local governmental clients apprised of developments that affect their financing and other programs, as well as their general operations, through frequent contacts, including mailings of circulars and the distribution of memoranda. Such written communications vary in length from short circulars (to advise clients quickly of federal legislative, including tax-related, developments) to longer,

in-depth pieces that provide guidance regarding substantive changes in laws affecting housing finance agencies or new programs. In the recent past, we have circulated most of our advisory pieces via email.

***Municipal Utility Law.*** Our public finance attorneys routinely represent cities owning and operating various types of municipal utilities, and we are familiar with many aspects of their operations, including project finance and the intricacies of rate-setting ordinances.

***Real Estate.*** Kutak Rock also draws on its expertise in related areas of finance when acting as bond counsel. For instance, the firm's national real estate practice has more than 65 lawyers actively engaged in the practice of commercial real estate lending, real estate and related aspects of bankruptcy and commercial law. Attorneys practicing in these areas provide service for a full spectrum of commercial activities in all 50 states. Clients of this practice area represent all segments of the real estate lending and development industry, including banks, insurance companies, pension funds, credit enhancers, construction contractors, developers, financial institutions, investors, investment advisors, investment bankers, lenders, lessors and lessees, mortgage conduits, property managers, publicly owned real estate funds and real estate investment trusts (REITs). This extensive experience can be most useful when our clients are developing new multifamily housing programs or need to address real estate issues that arise from time to time.

***SEC Regulatory Practice.*** In the disclosure/SEC area the firm has an extensive technical and litigation practice. On the technical side, the firm regularly deals with questions involving disclosure and SEC-related matters; in fact, over the last 20 years the firm has acted as underwriter's counsel on more municipal bond financings than any other law firm in the country. Moreover, the firm has an active SEC underwriter/issuer litigation defense practice, headed by attorneys who previously worked for the SEC. As part of its proactive practice, the firm also prepared and distributed to its municipal issuer clients a summary of the SEC's position and several suggested simple procedures an issuer can implement to address the SEC's concerns.

***Securities Laws.*** The firm is nationally recognized for its experience in bond-related federal securities laws, as well as federal and state tax laws. In the last 35 years the firm has been in the forefront of determining the interplay between federal securities laws—particularly the registration provisions thereof and the new Rule 15c2-12 matters—and municipal bonds. For example, the firm obtained the initial SEC no-action letters on municipal bond insurance, on municipal bond participations, on market rate (80-20) multifamily financings and on FDIC/FSLIC-backed multifamily bonds. The firm was also intimately involved in the rule-making process for Rule 15c2-12 and has advised numerous clients on its application.

***Securitization.*** The firm's vast experience in both the municipal bond and taxable securitization areas gives it a unique perspective on the national bond and structured finance/securitization markets. This is underscored by the firm's extensive practice of working with underwriters, particularly on new products. For example, the firm was counsel on the first floating rate bonds, the first floaters/inverse floaters and the first floaters issued without a liquidity provider.

## **Kansas Public Finance Practice**

As an institution, Kutak Rock has been serving as bond counsel in Kansas municipal finance transactions since 1976. Since January 1, 2014, the firm has provided legal services in more than 225 public finance issues aggregating nearly \$5.5 billion in principal amount in the State of Kansas. Of those transactions, the firm served as bond counsel for nearly 200 issues aggregating over \$2.2 billion in principal amount.

*The history of service that the firm's Kansas City office has provided to the City of Gardner has been a significant part of our Kansas public finance practice.* In particular,

- Served as bond counsel to the City from 2004 through 2019
- Assisted with more than 40 financings with an aggregate principal amount in excess of \$303 million
- Tyler Ellsworth, the proposed primary contact, has served as bond counsel or special tax counsel on more than a dozen individual financings for the City, including economic development financings, over the past three years

The firm has also served as counsel to numerous entities similar to the City, many of them in close proximity to Gardner. For example, the firm has served as the City of Lenexa's bond counsel since 2003 and, consequently, is intimately familiar with the City's financing history as well as the laws governing Kansas bond activity. During the ensuing years, the firm has worked to address a number of unique, complex and challenging issues it has faced. Some examples are as follows:

***General Obligation Financing on Internal Streets.*** Kansas statutes provide authority to issue general obligation bonds to finance main trafficways and trafficway connections and, if special assessments will be levied against benefited property, to finance internal streets, but do not include authority to issue general obligation bonds for internal streets without special assessments. In response to an inquiry by a municipal client regarding authority to issue general obligation bonds to finance internal streets for a development project, we were able to complete the research necessary to find an existing statute relating to street improvements that is applicable to first-class cities and that could be chartered out of by the city to create home rule charter authority to issue general obligation bonds to finance internal streets.

***Substitute Improvement Provisions.*** For several years a municipal client issued more than \$5 million in tax-exempt debt and was subject to rebate requirements under the Internal Revenue Code. Investment earnings over the yield of the obligations generally had to be returned to the federal government. The time and expense in calculating rebate was burdensome for the city, its staff and outside consultants. To minimize the likelihood that rebate would need to be required, we developed, with approval from the Kansas Attorney General's office, a provision for the city to include in its bond and note documents which permits the city to "substitute" one project for another under certain circumstances. This provision allowed the city to spend the bond or note proceeds fast enough to qualify for certain "spend down" exceptions

under the rebate provisions of the Code. Our client was the first city to add this flexibility to its bond documents, but a number of cities have now adopted this structure.

***Capital Appreciation Revenue Bonds.*** When the Johnson County Park and Recreation District needed to build a golf course, they needed to structure a bond issue that required no payments until after the course was built and then had payments that gradually increased as use of the course was expected to increase. The solution we developed for the district was to issue capital appreciation bonds. These are bonds that are similar to “zero coupon” bonds, which pay interest only at the maturity of each bond and then only on that bond. The structure has worked well for the district to allow it to match bond payments with revenue from the golf course.

The above list represents only a small portion of the innovative types of solutions we have developed with clients to solve their particular needs.

**Tyler Ellsworth, Kathryn P. Peters, Joseph D. Serrano, Adrian E. Serene and Matthias M. Edrich**, lawyers proposed to staff the City’s bond counsel work, have served as bond counsel for numerous Kansas public entities. Their experience includes representation of Kansas cities, counties, school districts, water districts, fire districts, library districts and other entities, including the State of Kansas and various state agencies, in connection with general obligation bonds and notes, utility revenue bonds, tax increment bonds, community improvement district bonds, transportation development district bonds, sales tax revenue bonds, lease purchase and certificate of participation issues, multifamily housing revenue bonds, 501(c)(3) revenue bonds, small-issue manufacturing revenue bonds, taxable industrial revenue bonds and a variety of other types of municipal obligations. Additional attorneys with Kutak Rock who have significant Kansas bond experience are also available if needed for any reason.

Attorneys with Kutak Rock currently serve as bond counsel to an extensive list of Kansas issuers that includes the City of Gardner, as well as the cities of Lenexa, Overland Park, Shawnee, Hutchinson, Merriam, Ottawa, Bonner Springs, Spring Hill, Edwardsville, the Johnson County Park and Recreation District and many others. These representations allow us to draw on a broad base of Kansas public finance experience to better serve each client.

Because of the firm’s extensive national practice, we are also able to “tap into” resources at the national level to help solve local issues and concerns. Our public finance attorneys regularly participate in conference calls with bond attorneys throughout the country to discuss financing ideas and structures being developed in other states, as well as federal tax and disclosure issues that affect bond transactions. This type of exposure to new and successful financing ideas benefits all of the firm’s bond issuer clients. The team of firm attorneys who are proposed to work with the City have the distinct advantage of ready access to our national network of over 110 public finance lawyers in offices across the country. This sizable group of bond lawyers—one of the largest of all national firms—is coordinated on a national level to ensure that the firm’s high professional standards are maintained and to make special expertise available to the entire firm. ***The ability of each public finance attorney to consult colleagues in other offices by e-mail or telephone and receive quick answers to esoteric questions is a major asset of Kutak Rock’s public finance practice.***

Attorneys with the firm have also represented Kansas jurisdictions in drafting and testifying on legislation related to public finance matters. Specifically, we have represented Kansas cities and counties on (a) revisions to the general obligation public sale requirements, (b) numerous revisions to the Kansas Tax Increment Financing Act, (c) major revisions to the Kansas Transportation Development District Act, (d) revisions to the Kansas Community Improvement District Act, (e) modifications to the county statutory debt limit law to significantly increase the debt limit for one county, (f) modifications to the election requirements for a special taxing district to reduce election costs and facilitate the election process, (g) special legislation for one city to validate bonds issued pursuant to an election which contained flawed election proceedings and (h) various other legislative matters.

We do call to your attention that Kutak Rock regularly represents banks and investment banking firms which might purchase the City's bonds or act as a bond trustee. Should the City appoint the firm as bond counsel, we commit to the City not to represent any party other than the City in the City's bond financings. We also note that, unlike many public finance attorneys, the public finance attorneys in the Kansas City office of Kutak Rock concentrate their practice in the representation of public entities, rather than underwriters, trustees or other parties to bond transactions.

## **2. Expertise in Economic Development**

Having served as bond counsel to numerous Kansas entities, several of which are neighboring or located within 30 miles of the City, Kutak Rock is thoroughly familiar with the economic climate in the region. The firm has served as bond counsel to the City of Lenexa since 2003, to the City of Merriam since 2003, to the City of Overland Park since 2005, to the City of Shawnee since 2005 and to the City of Spring Hill since 2004. Mr. Ellsworth, Ms. Peters and Mr. Serrano all regularly serve as bond counsel to these municipalities. We believe the firm's long-term representation of these municipalities speaks for itself with respect to the issue of familiarity with the economic climate.

The attorneys proposed to staff the City's bond counsel work have extensive expertise in economic development matters and regularly work with and advise municipal clients regarding economic incentives and financing. ***Notably, attorneys in the proposed working group in the firm's Kansas City office represent only governmental issuers, and not developers, in economic development matters. This provides municipal clients assurance that Kutak Rock attorneys are looking out for the interest of the communities they advise and not other parties to the transaction.*** This representation includes:

- Advising on the pros and cons of different types of requested incentives
- Coordinating all proceedings for the creation of TIF, STAR, CID, TDD and special improvement districts
- Drafting and negotiating development agreements

Complex and challenging issues the firm's attorneys have faced in connection with Kansas economic development matters include:

***Industrial Revenue Bonds.*** The industrial revenue bonds issued by a municipal client on behalf of a private company were structured in a complex way to accomplish a relatively simple goal. The bonds were structured in three series (two superior lien bond issues and one subordinate lien bond). One issue, which was marketed on a retail basis to the general public, was structured as a variable-rate, multi-modal, letter-of-credit-backed issue. Two issues were privately placed and structured as fixed-rate debt. The combination of structures allowed the company to maximize its sales tax exemption and acquire more capital improvements without increasing the property tax exemption provided by the city.

***Special Improvement District Bonds.*** During the period of time when our client was close to its statutory general obligation debt limit, the City still wanted to find a debt structure that would permit it to assist developers with the financing of infrastructure in certain areas of the City. We developed with the city the "SID" bond structure under the City's home rule authority. This structure permitted our client to issue bonds secured only by special assessments, which were, therefore, outside the statutory debt limit. Because the issues were not backed by the city's general obligation authority, a variety of additional credit enhancements were used in the SID bond issues to minimize exposure for the city in case assessments were delinquent.

In addition, Kutak Rock attorneys have developed many of the "firsts" in State of Kansas bond issues within other jurisdictions, including the following:

***"Pay-as-You-Go" STAR Financing.*** The City of Wichita had received approval of a STAR bond district and project plan before the recession began in the fall of 2008. The downturn in the economy made it more difficult and expensive to market revenue bonds secured by State and local sales tax collected in STAR bond districts that did not have a broad base of retailers and a long history of sales tax collection. Funds for the project had been advanced by the city, but the city needed those funds to be eventually paid back. Our attorneys worked with the city, the Department of Commerce and the Department of Revenue to develop a pay-as-you-go financing alternative that permits the city to capture the incremental State and local sales tax and apply it to reimburse the city for expenditures on the STAR "bond" project. This non-bond solution developed by a bond lawyer is the first and only transaction of its kind in the State.

***First Sales Tax Revenue Bonds.*** We structured the first city sales tax revenue bond issue for the City of Bonner Springs to enable the city to finance certain sewer improvements (necessitated in large part by a new Wal-Mart) without adding to the city's general obligation debt.

***Prairiefire Project.*** Worthy of special note is a particular financing in which Kutak Rock served as bond counsel which used special obligation sales tax revenue bonds and private activity bonds as the debt instruments. In 2013 the Council of Development Finance Agencies (the "CDFA") recognized the City of Overland Park, Kansas as the recipient of its CDFA Excellence in Bond Finance Award. The award recognizes the creative use of tax-exempt bond



finance for economic development and showcases projects that have helped to raise the awareness of tax-exempt bonds as an economic development finance tool.

The project that was honored, the Prairiefire at LionsGate Project (the “Prairiefire Project”), consists of the development of 61.5 acres in Overland Park, Kansas as a mixed-use, integrated urban village. The Prairiefire Project plan includes a natural history museum (the “Museum”), commercial retail buildings, a parking garage and surface lots, and also apartment buildings and residential villas. The Museum is affiliated with the American Museum of Natural History (“AMNH”) of New York, and features traveling exhibits from the AMNH and permanent exhibits. The Prairiefire Project qualified for financing under the Kansas STAR Bond Act, which authorize cities to acquire property and to issue special obligation “sales tax and revenue” bonds (“STAR Bonds”) secured by certain tax revenues. The STAR Bond Act authorizes the establishment of a redevelopment district and a redevelopment project area therein and the issuance of bonds payable from incremental State and local sales and compensating use taxes generated from retail projects constructed within the redevelopment district. The Prairiefire Project was also financed by CID bonds and by economic development revenue bonds. The initial phase of the Project was financed with a variety of bonds issued between December 2012 and April 2013: (1) \$64,990,000 of tax-exempt Sales Tax Special Obligation Revenue Bonds (the STAR Bonds); (2) \$14,115,000 of tax-exempt and taxable Sales Tax Revenue Bonds (the CID bonds); and (3) not to exceed \$16,000,000 of Federally Taxable Private Activity Revenue Bonds (the economic development revenue bonds). Ms. Peters and Mr. Serrano, together with other Kutak Rock attorneys, continue to provide advice to the City of Overland Park in connection with the Prairiefire Project.

### **3. Primary Contact; Proposed Working Group**

If the County selects Kutak Rock to provide bond counsel services, **Tyler Ellsworth** of the firm’s Kansas City office would serve as the lead attorney and principal contact for the County. **Joseph D. Serrano, Kathryn P. Peters, Jacob S. Lowry and Adrian E. Serene** of the Kansas City office would support Mr. Ellsworth with structuring advice, legal research and document preparation. **Matthias M. Edrich**, a member of the firm’s Section 103 tax group in the Denver office, would provide the tax analysis for any discrete issue and draft all necessary tax documents. Brief résumés of these attorneys follow.

**Tyler Ellsworth** is a partner with the public finance group in the firm’s Kansas City office. He primarily acts as bond counsel and special tax counsel to municipalities in connection with the issuance of municipal bonds, notes and lease obligations. Mr. Ellsworth routinely advises Kansas issuers on financing matters, including Franklin County, Anderson County, the Johnson County Park and Recreation District, and the Cities of Gardner, Spring Hill, Hutchinson, and Ottawa, among others. He has also presented on topics including economic development and continuing disclosure compliance. Prior to joining the public finance group, Mr. Ellsworth practiced commercial real estate law and represented purchasers, lenders and landlords in real estate acquisition, financing and leasing matters. He joined the firm in 2011. Mr. Ellsworth earned a bachelor’s degree and an M.B.A. from Washington University in St. Louis (in 2003 and 2011, respectively) and a law degree from Washington University in St. Louis School of Law in 2011. He is licensed to practice in Kansas, Missouri and Arizona (inactive) and is a member of the National Association of Bond Lawyers (“NABL”).

**Kathryn P. Peters**, a partner in Kutak Rock's Kansas City office, has been in private practice since 1988, concentrating in the areas of municipal bond financings, economic development initiatives and municipal utility matters, and previously was an Assistant City Attorney of Kansas City, Kansas, a position that gave her a sound footing in all aspects of public law. She began her career as a federal judicial law clerk following graduation from law school in 1977. Ms. Peters' practice includes acting as bond counsel and special tax counsel for a variety of governmental purpose and private purpose issues. She has written opinions on billions of dollars of general obligation bond issues, special obligation bond issues, revenue bond issues and other bond issues as bond counsel, including refunding issues. Ms. Peters earned a bachelor's degree, magna cum laude, in 1973 from Wichita State University and a law degree (Order of the Coif) in 1977 from the University of Kansas, where she was a member of the law review. She is admitted to practice in Kansas and Missouri and is a member of NABL.

In recent years Ms. Peters has led the firm's bond counsel and co-bond counsel representation of the City of Kansas City, Missouri (the "City"), the Land Clearance for Redevelopment Authority of Kansas City, Missouri, The Industrial Development Authority of the City of Kansas City, Missouri and the Tax Increment Financing Corporation of Kansas City, Missouri in a number of special obligation bond and revenue bond financings, including both governmental purpose and private purpose financings, and the firm's co-disclosure counsel representation of the City. In the past five years alone, Ms. Peters has served as co-bond counsel for **more** than 30 City of Kansas City issues aggregating in excess of \$1.4 billion. Additionally, since late 2009 she has had responsibility for the firm's service as lessee's counsel to the City of Kansas City, Missouri for financings completed under its Master Equipment Lease/Purchase Agreement. Ms. Peters is the Kutak Rock attorney who has primary responsibility for the firm's service as co-disclosure counsel to the State of Missouri.

**Joseph D. Serrano**, a partner in Kutak Rock's Kansas City office, has been in private practice since 1993 and concentrates his practice in the public finance area. Mr. Serrano routinely consults with cities and counties regarding general obligation bonds and notes, special benefit districts, including TIFs, CIDs, TDDs, Improvement Districts, and STAR Bond Districts, industrial revenue bonds and lease-purchase transactions. He has provided lead counsel services to a number of Kansas and Missouri entities including the City of Overland Park, the City of Lenexa, the City of Shawnee, the City of Merriam, and the Missouri Clean Energy District, among others. He has also been a guest speaker on bond-related matters for public entities and groups serving such entities. He earned a bachelor's degree from the University of Missouri, St. Louis, in 1990; a law degree from the University of Kansas School of Law in 1993; and an LL.M. in taxation from the University of Missouri, Kansas City, School of Law in 1997. Mr. Serrano is licensed to practice in Kansas and Missouri and before the United States Tax Court and is a member of NABL.

**Adrian E. Serene** is a public finance associate in Kutak Rock's Kansas City office. He primarily acts as bond counsel and special tax counsel to municipal issuers in connection with the issuance of municipal bonds. Mr. Serene has assisted issuers with taxable and tax-exempt notes and bonds for refunding and new money issues, lease-purchase transactions and certificates of participation. Prior to joining Kutak Rock in 2016, Mr. Serene served as an Assistant Attorney General for the Office of the Kansas Attorney General. While there, he brought civil litigation and criminal prosecution on behalf of the Attorney General. He frequently addressed

the Kansas Legislature regarding pending legislation and addressed various civic organizations regarding consumer protection topics. Mr. Serene also served as an attorney for the Kansas Office of the State Bank Commissioner. While there, he regulated state-chartered financial institutions and represented the Bank Commissioner in administrative and civil litigation. He earned his B.A. from Kansas State University in 2001 and his law degree from Washburn University School of Law in 2005. He is licensed to practice in Kansas and is a member of NABL.

**Matthias M. Edrich**, a tax partner with Kutak Rock's Section 103 Tax Department in the firm's Denver office, focuses his practice on tax aspects of financial instruments, with an emphasis on tax-exempt and tax credit bonds. Mr. Edrich advises clients on developing effective tax solutions and delivering efficient structuring ideas. His clients have included governmental and corporate securities issuers, banks, securities dealers, energy and solid waste recycling companies, manufacturers, schools and higher education institutions, hospitals and other healthcare and senior living organizations, various types of nonprofit community service providers, multifamily housing bond issuers, transportation providers, and special districts and community development districts. Mr. Edrich received his B.S. from the University of Colorado at Boulder in 2003, an M.B.A. and law degree from the University of Denver in 2007 and an LL.M. in taxation from the University of Denver in 2013. Mr. Edrich is licensed to practice in Colorado, Massachusetts and the United States Tax Court.

#### **4. Statement Regarding Kansas Licensure**

The principal attorneys who would be assigned to the engagement with the City for bond matters are in good standing with the Kansas state bar association. Tyler Ellsworth holds Kansas bar license number 26929, Kathryn P. Peters holds Kansas bar license number 09421, Joseph D. Serrano holds Kansas bar license number 19425, and Adrian E. Serene holds Kansas bar license number 22810.

#### **5. Local Governmental Clients**

The following table shows a representative list of local jurisdictions that Kutak Rock represents in public finance matters. As requested, we have provided the types of services rendered and the length of time the firm or attorneys with the firm have represented each client.

<b>Client</b>	<b>Types of Services Rendered</b>	<b>Year in Which Service Commenced</b>	<b>Primary Contact</b>
<b>City of Gardner, Kansas</b>	<b>bond counsel</b>	<b>2004</b>	Joseph D. Serrano and Tyler Ellsworth
Anderson County Kansas Public Building Commission	ongoing bond counsel	2008	Tyler Ellsworth

City of Bonner Springs, Kansas	ongoing bond counsel	2004	Tyler Ellsworth
City of Burlington, Kansas	ongoing bond counsel	2010	Tyler Ellsworth
City of Edwardsville, Kansas	ongoing bond counsel	2009	Tyler Ellsworth
Franklin County, Kansas	ongoing bond counsel	2004	Tyler Ellsworth
City of Hutchinson, Kansas	ongoing bond counsel	2003	Tyler Ellsworth
City of Lenexa, Kansas	ongoing bond counsel	2003	Joseph D. Serrano
City of Merriam, Kansas	ongoing bond counsel	2003	Joseph D. Serrano
City of Mission Hills, Kansas	ongoing bond counsel	2006	Joseph D. Serrano
City of Ottawa, Kansas	ongoing bond counsel	2003	Tyler Ellsworth
City of Overland Park, Kansas	ongoing bond counsel	2005	Joseph D. Serrano
City of Shawnee, Kansas	ongoing bond counsel	2005	Joseph D. Serrano
City of Spring Hill, Kansas	ongoing bond counsel	2004	Tyler Ellsworth
City of Kansas City, Missouri	bond counsel for selected issues	2006	Kathryn P. Peters
City of Conway, Arkansas	ongoing bond counsel	2000	
City of Fayetteville, Arkansas	ongoing bond counsel	1999	
Alameda-Contra Costa (California) Transit District	ongoing bond counsel	2001	

City of Long Beach, California	ongoing bond counsel	2000	
City of Los Angeles Housing Department	ongoing bond counsel	1982	
Department of Airports of the City of Los Angeles	bond counsel for selected issues	1995	
Los Angeles County Metropolitan Transportation Authority	bond counsel or disclosure counsel for discrete issues	1996	
County of Riverside, California	ongoing disclosure counsel	1997	
County of San Bernardino, California	disclosure counsel for discrete issues	2002	
City and County of San Francisco	co-bond counsel for discrete issues	2010	
City of Boulder, Colorado	ongoing bond and disclosure counsel	1981	
Boulder County, Colorado	ongoing bond counsel	1993	
City of Colorado Springs, Colorado	ongoing bond counsel	1998	
City and County of Denver, Colorado	bond counsel or disclosure counsel for certain types of issues	1991	
Denver Public Schools	ongoing bond counsel	1998	
El Paso County, Colorado	ongoing bond and disclosure counsel	1995	
Urban Residential Finance Authority of the City of Atlanta, Georgia	bond counsel in rotation with another firm	2002	
City of Chicago, Illinois	bond counsel for certain types of issues	2001	

Housing Opportunities Commission of Montgomery County, Maryland	ongoing bond counsel	1979	
Metropolitan Airports Commission (Minneapolis-St. Paul)	ongoing bond counsel	1998	
City of Omaha, Nebraska	ongoing bond counsel	1984	
Omaha Public Power District	ongoing bond counsel	1977	
City of Hampton, Virginia	ongoing bond counsel	2011	
City of Virginia Beach, Virginia	bond counsel for certain financings	2011	
City of Janesville, Wisconsin	ongoing bond counsel	2002	
City of Madison, Wisconsin	ongoing bond counsel	2001	

## 6. References

We invite the City to contact the following governmental entities the firm has served as bond counsel as listed below:

### **Mr. Derek Brown**

County Administrator/County Counselor  
Franklin County  
315 South Main Street  
Ottawa, KS 66067  
785.229.3485

### **Ms. Cindy Harmison**

City Attorney  
City of Lenexa  
17101 West 87th Street Parkway  
Lenexa, KS 66219  
913.477.7500

### **Ms. Noelle Testa**

Chief Financial Officer  
Johnson County Park & Recreation District  
7900 Renner Road  
Shawnee Mission, KS 66219  
913.438.7275

### **Ms. Melanie Landis**

Assistant City Administrator  
City of Spring Hill  
401 North Madison Street  
Spring Hill, KS 66083  
913.592.3664

## 7. Other Relevant Information

We believe the specific information provided in this proposal fully present the case for the engagement of Kutak Rock as bond counsel to the City and PBC. We take this opportunity, however, to summarize briefly the main reasons we believe the City should select Kutak Rock:

- ***History of Service to the City of Gardner.*** As noted previously, the firm served as bond counsel to the City from 2004 through 2016 for more than 30 financings with an aggregate principal of more than \$238 million. Joseph D. Serrano, the proposed primary contact, and Tyler Ellsworth, a member of the proposed working group, assisted with a certain number of these issues. This history translates to familiarity with the City's practices, charter ordinances, policies, including the City's unique challenges and resulted in what we believe are efficient and effective procedures to assist the City's staff with the issuance of the City's bonds and notes. Additionally, the firm is knowledgeable of the City's Economic Development Incentive Policy, and intimately aware of the City's goals and objectives set forth therein.
- ***Expertise in Economic Development.*** The attorneys proposed for this engagement have substantial experience representing Johnson County-area municipalities in connection with economic development matters. Such representation includes serving as bond counsel in the issuance of industrial revenue bonds as well as advising issuers regarding economic incentives, structuring benefit districts, drafting and negotiating development agreements, and serving as bond counsel and disclosure counsel to TIF, CID, TDD and STAR Bond issues.
- ***Kansas Public Finance Experience.*** The attorneys proposed for this engagement have substantial experience serving as bond counsel to Kansas government entities, including the Cities of Lenexa, Overland Park, Shawnee, Spring Hill and Merriam, among others.
- ***National Public Finance Practice.*** We have a broad range of experience providing services across the country in virtually every type of bond financing. In annual industry rankings the firm has consistently ranked among the top 10 bond counsel firms nationwide for decades. In recent years we have been ranked among the top five. Kutak Rock's comprehensive exposure to the national public finance marketplace in a wide variety of capacities keeps us up to date with all innovations (and problems) in the industry when they occur.

In addition, we note that our philosophy in working with the City and PBC would be to foster a long-term commitment. To that end, we would strive to be a reliable, productive, creative and responsible member of the City's finance team. ***We would not advocate for "deals" that are not in the City's best interest, even though we typically receive payment only when a transaction closes.*** We rarely bill other clients for consultation on matters even though the representation may never evolve into completed financing or project. We have also adjusted our fees and schedules for other clients, where appropriate, to help make transactions that are important to them happen.

## COUNCIL ACTION FORM

## CONSENT AGENDA ITEM NO. 7

**MEETING DATE:** JANUARY 21, 2020

**STAFF CONTACT:** GONZ GARCIA, UTILITIES DIRECTOR

---

**Agenda Item:** Consider authorizing a sludge removal contract with Digital Erth Consulting, LLC.

**Strategic Priority:** Fiscal Stewardship  
Increase Infrastructure and Asset Management

**Department:** Utilities - Wastewater

---

**Staff Recommendation:**

Staff recommends authorizing a 1-year contract with Digital Erth Consulting, LLC for the purpose of sludge removal from Kill Creek Wastewater Resource Recovery Facility.

**Background/Description of Item:**

The City of Gardner was under contract with Synagro Central, LLC for the removal of all sludge produced by Kill Creek WRRF from January 10, 2010 until December 31, 2019. The Kill Creek plant produces roughly 800 tons of bio-solids per year, removed via semi-truck and end-dump trailer. Hauled sludge is then stored, or land-applied, depending on weather conditions and KDHE regulations. The contractor also completes an annual sludge use and disposal report, in accordance with 40 CFR Part 503 sludge regulations from the Kansas Department of Health and Environment. Staff contacted Synagro, Digital Erth, and Waste Management, who all provide bio-solids services. Only Synagro and Digital Erth Consulting, LLC responded.

Synagro Sludge Removal:

Revised Rate for 2020      \$787.77 per load

Digital Erth Consulting, LLC:

Rate for 2020      \$660.00 per load

A contract with Digital Erth would provide an annual savings of \$3,449.79, based on 2019 sludge removal quantities.

**Financial Impact:**

Sludge removal expenses are included in the adopted 2019-2020 Wastewater Fund budget.

**Attachments:**

- Sludge Removal Agreement

**Suggested Motion:**

Authorize the City Administrator to sign a 1-year contract with Digital Erth Consulting, LLC for the purpose of sludge removal from Kill Creek WRRF, in an amount not to exceed \$30,000.



## AGREEMENT FOR BIO-SOLIDS REMOVAL SERVICES

This agreement ["Agreement"], is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the City of Gardner, Kansas, [hereinafter "City"], and Digital Erth Consulting LLC, [hereinafter referred to as "Vendor"].

### RECITALS

WHEREAS, pursuant to a request by City, Vendor has submitted a proposal to Provide a 1 year service contract for the removal of Bio solids from the Kill Creek Water Resource Recovery Facility; and

WHEREAS, City and Vendor desire to state the terms and conditions for this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

### AGREEMENT

#### 1.0 Purpose.

Vendor will remove; bio solids from the Kill Creek WRRF plant to an off-sight location and land apply as weather permits. Vendor will be responsible for all soil testing requirements as specified in 40 CRF 503. Vendor will maintain all records as required by KDHE. Vendor will prepare and submit the Land application forms for Kansas domestic wastewater treatment facilities to the EPA as required by 40 CFR 503.as requested by City and as outlined in Vendor's response to said Request.

#### 2.0 Term of Agreement.

The term of this Agreement shall be from January 1, 2020 to December 31, 2021 unless terminated earlier in accordance with the provisions of Article 2 below. In the event that the services rendered under this Agreement may extend beyond any one budget year, the continuation of this Agreement from year to year is contingent upon the approval of sufficient budgetary authority for the continuation of this Agreement by the Governing Body of the City in the establishment of its annual budget.

#### 3.0 Termination.

City reserves the right to terminate this Agreement with a thirty (30) day written notice as a result of the failure of Vendor to provide acceptable goods or if City determines that goods can be better provided by in-house or other sources. In the event of termination of this Agreement as a result of a breach by Vendor, the City will not be liable for any fees and may, at its sole option, award an agreement for the same goods to another qualified firm to provide goods or the City may complete the work in-house.

#### 4.0 Compensation and Prices.

- 4.1 City agrees to pay and Vendor agrees to accept as compensation for the goods and services provided pursuant to this Agreement, payment in the amount identified within the table below, with the total including all services that Vendor has agreed to provide to City, along with the listed goods. The fees indicated within said table shall include all of Vendor's time, labor, equipment, and supplies. Furthermore, the prices included within said table include all freight, inside delivery, fuel charges, and handling fees.
- 4.2 Payment shall be made by City only for goods provided and upon submission of a payment request upon delivery of goods.
- 4.3 All invoices should be sent to Lisa Elmore.
- 4.4 Compensation table, **Digital Erth Consulting LLC** to invoice the City for the following item(s) when described:
  - 1. **Remove, bio solids from Kill Creek plant to an off sight location owned or leased by Digital Erth Consulting LLC**
  - 2. **Total is \$30 per hauled ton for the disposal of class B bio solids with 30-day payment terms upon invoice.**

#### 5.0 Cash Basis and Budget Laws.

The right of the City to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the City shall at all times stay in conformity with such laws, and as a condition of this Agreement the City reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws, or if mill levy funds generated are less than anticipated.

#### 6.0 Indemnification.

If properly notified and given the opportunity to do so, the Vendor shall indemnify and save harm City, its officers, agent and employees from all suits, actions, or claims brought for or on account of any bodily injury or damage to tangible property arising out of or caused by the negligence of the Vendor, its officers, agents or employees. The total liability of Vendor in connection with this indemnity agreement shall in no event exceed either the contract price or the value of any applicable insurance proceeds, whichever would permit the City a greater recovery.

#### 7.0 Insurance.

- 7.1 The Vendor shall procure and maintain, at its expense, throughout the duration of this Agreement, insurance of such types and in at least such amounts as required herein from an insurance company licensed to do business in the State of Kansas. The following insurance coverages:
  - ☐ Workers' Compensation and Employer's Liability - Demonstrate compliance with K.S.A. 44-532(b) including maintenance of insurance providing the statutory limits under the Kansas Workers Compensation

Act; the Vendor shall also be protected against claims for injury, disease, or death of employees, which, for any reason, may not fall within the provisions of a worker's compensation law. This policy shall include an "all states" endorsement.

- ☐ Commercial General Liability for bodily injury and property damage liability claims with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate (If the vendor will be making on-site delivery); and
- ☐ Commercial Automobile Liability for bodily injury and property damage with limits of not less than \$1,000,000 each accident for all owned, non-owned and hired automobiles (If the vendor will be making on-site delivery); and
- ☐ Professional Liability - The Vendor shall maintain Professional Liability insurance in an amount not less than \$500,000; and
- ☐ Products Liability Insurance - The Vendor shall maintain Products Liability insurance in an amount not less than \$1,000,000.

7.2 The City shall be named as additional insured on such policies. Satisfactory certificates of insurance shall be filed with the City prior to starting any work on this Contract. The certificates shall state that thirty (30) days written notice will be given to the City before any policy coverage thereby is changed or canceled.

7.3 Industry Ratings - The City will only accept coverage from an insurance carrier who offers proof that it:

- 1) Is licensed to do business in the State of Kansas;
  - 2) Carries a Best's policyholder rating of A or better;
- AND
- 3) Carries at least a Class X financial rating.

OR

Is a company mutually agreed upon by the City and Vendor.

#### 8.0 Conflict of Interest.

Vendor covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder, including under 31 U.S.C.S. Section 1352. Vendor further covenants that in the performance of this Agreement no person having any such interests shall be employed.

#### 9.0 Nondiscrimination.

Vendor must comply with the Kansas Act Against Discrimination and if applicable, execute a Certificate of Nondiscrimination and Affirmative Action as provided in K.S.A. §44-1030. The Vendor further agrees that the Vendor shall abide by the Kansas Age Discrimination

in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 1201 et seq.) as well as all other federal, state and local laws, ordinances and regulations applicable to this project and to furnish any certification required by any federal, state or local governmental agency in connection therewith

10.0 Facilities and Equipment.

Vendor shall furnish at its own cost and expense all labor, tools, equipment, materials, transportation, and any other accessories, services and facilities required to complete the provision of services and goods as designated, described in accordance with this Agreement, including any attached exhibits and any addendums to this Agreement. The City expressly denies responsibility for or ownership of any item purchased until the same is delivered to and accepted by the City.

11.0 Accessibility.

Vendor will comply with the Rehabilitation Act of 1973, as amended, Section 504, which prohibits discrimination against handicapped persons in employment services, participation and access to all programs receiving federal financial assistance. Vendor shall also comply with applicable requirements with the Americans with Disabilities Act (ADA), as amended, which is a federal anti-discrimination statute designed to remove barriers which prevent qualified individuals with disabilities from enjoying equal treatment by state and local governments and their agencies in employment practices and accessibility in public services and programs.

12.0 Records, Ownership and Inspection.

12.1 Ownership of Documents.

All documents prepared by Vendor in the performance of this Agreement, although instruments of professional service, are and shall be the property of City, whether the project for which they are made is executed or not.

12.2 Open Records.

In recognition of the City's obligations under the Kansas Open Records Act ("KORA"), Vendor acknowledges that this Agreement along with any reports and/or records provided pursuant to this Agreement are public documents and are subject to disclosure under KORA.

13.0 Independent Contractor.

It is the express intent of the parties that this Contract shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of the City and employees of the City shall not be deemed to be employees of the Contractor. The Contractor and the City shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the City's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining worker's compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employee's compensation.

14.0 Compliance with Laws.

The Vendor shall observe and comply with all applicable federal, state, and local laws, regulations, standards, ordinances or codes and shall be in compliance with all applicable licensure and permitting requirements at all times.

15.0 Assignment.

Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented. The subcontracting, assignment, delegation or transfer of the Services shall in no way relieve the Vendor of its primary responsibility for the quality and performance of such Services.

16.0 Confidentiality.

All reports and documents prepared by Vendor in connection with the performance of this Agreement are confidential until released by City to the public. Vendor shall not make any such documents or information available to any individual or organization not employed by Vendor or City without the written consent of City before any such release.

17.0 Notices.

All notices hereunder shall be given in writing and sent as follows:

To City: Scott Millholland  
32101 west 159<sup>th</sup> ST  
Gardner, Kansas 66030

To Vendor: Digital Erth Consulting LLC  
33560 W. 151ST  
Gardner, Kansas 66030  
Attn. Chuck Finley

18.0 Amendments.

18.1 This document represents the entire and integrated agreement between City and Vendor and supersedes all prior negotiations, representations, and agreements, either written or oral.

18.2 This document may be amended only by written instrument, signed by both City and Vendor.

19.0 No Third Party Beneficiaries.

City and Vendor specifically agree that this Agreement is not intended to create any third party beneficiary relationship nor to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement; the duties, obligations and responsibilities of the parties to this Agreement with respect to third parties shall remain as imposed by law.

20.0 Force Majeure.

Any delays in, or performance by City or Vendor, other than payment of money, shall not constitute default hereunder if such delay, failure or performance is caused by occurrences beyond the control of City or Vendor. Force Majeure delays will be agreed upon by both parties as to the following: (1) the extent, if any, to which the time for performance shall be extended; (2) any adjustments to the time table set out in the original proposal.

21.0 Titles.

The titles in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

22.0 Negotiations.

City and Vendor agree that disputes relative to the project should first be addressed by negotiations between the parties. If direct negotiations fail to resolve the dispute, the party initiating the claim that is the basis for the dispute shall be free to take such steps as it deems necessary to protect its interests; provided, however, that notwithstanding any such dispute Vendor shall proceed with the work as per this Agreement as if no dispute existed; and provided further that no dispute will be submitted to arbitration without both parties' express written consent.

23.0 Costs and Attorneys Fees.

If on account of a continued default or breach by either party of such party's obligations under the terms of this agreement after any notice and opportunity to cure as may be required hereunder, it shall be necessary for the other party to employ one or more attorneys to enforce or defend any of such other party's rights or remedies hereunder, then, in such event, any reasonable amounts incurred by such other party, including but not limited to attorneys' fees, experts' fees and all costs, shall be paid by the breaching or defaulting party.

24.0 Severability.

If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

25.0 Authority to Enter into Agreement.

Vendor has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective party.

26.0 Incorporation of Appendices.

27.0 Entire Agreement.

This Agreement and the documents incorporated herein represents the entire agreement between the Parties hereto and any provision not contained herein shall not be binding upon either party, nor have any force or effect.

28.0 Governing Law and Venue.

This Agreement shall be governed by the laws of the State of Kansas and, in the event of litigation, the sole and exclusive venue shall be within the District Court of Johnson County, Kansas.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

CITY OF GARDNER, KANSAS

VENDOR

Chuck Finley, Digital Erth Consulting LLC

\_\_\_\_\_  
City Administrator

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Ryan Denk, City Attorney

## EXHIBIT A - Proposal



## COUNCIL ACTION FORM

## CONSENT AGENDA ITEM NO. 8

**MEETING DATE:** JANUARY 21, 2020

**STAFF CONTACT:** MICHAEL KRAMER, PUBLIC WORKS DIRECTOR

---

**Agenda Item:** Consider approving the 2020 County Assisted Road System (CARS) agreement for the Moonlight and Madison signal project

**Strategic Priority:** Infrastructure and Asset Management

**Department:** Public Works

---

### **Staff Recommendation:**

Staff recommends approving an agreement with Johnson County for the 2020 County Assisted Road System (CARS) Moonlight and Madison signal project, authorizing execution of same by the Mayor, and authorizing distribution of funds.

### **Background/Description of Item:**

In 2019, the City applied for funding through the CARS program for the Moonlight and Madison signal project. The County subsequently approved the project for 2020 and is now requesting that the City sign an agreement. CARS will provide up to \$239,000 in matching funds.

### **Financial Impact:**

Based on the preliminary estimate, the City is expected to provide \$275,000 toward design, right-of-way acquisition, utility relocation, and construction of the project. Funding will come from the Special Highway Fund.

### **Attachments included:**

- CARS Agreement

### **Suggested Motion:**

Authorize the Mayor to sign the 2020 County Assisted Road System (CARS) agreement with Johnson County for design and construction of the Moonlight and Madison signal project.

**Agreement between Johnson County, Kansas,  
and the City of Gardner, Kansas, for the Public Improvement of  
Moonlight Road and Madison Avenue Intersection  
(320001317)**

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2020  
by and between the Board of County Commissioners of Johnson County, Kansas ("Board") and the  
City of Gardner, Kansas, ("City").

WITNESSETH:

WHEREAS, the parties have determined that it is in the best interests of the general public in  
making certain public improvements to Moonlight Road and Madison Avenue Intersection (the  
"Project"); and

WHEREAS, the laws of the State of Kansas authorize the parties to this Agreement to  
cooperate in undertaking the Project; and

WHEREAS, the governing bodies of each of the parties have determined to enter into this  
Agreement for the purpose of undertaking the Project, pursuant to K.S.A. 12-2908 and K.S.A. 68-169,  
and amendments thereto; and

WHEREAS, the Project has been approved, authorized, and budgeted by the Board as an  
eligible project under the County Assistance Road System ("CARS") Program; and

WHEREAS, the Board has, by County Resolution No. 106-90, authorized its Chairman to  
execute any and all Agreements for County participation in any CARS Program project which has  
been approved and authorized pursuant to the Policies and Guidelines adopted by the Board and for  
which funding has been authorized and budgeted therefore; and

WHEREAS, the governing body of the City did approve and authorize its Mayor to execute  
this Agreement by official vote on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, and for other good and valuable consideration, the parties agree as follows:

1. **Purpose of Agreement.** The parties enter into this Agreement for the purpose of undertaking the Project to assure a more adequate, safe and integrated roadway network in the developing and incorporated areas of Johnson County, Kansas.
2. **Estimated Cost and Funding of Project**
  - a. The estimated cost of the Project (“Project Costs”), a portion of which is reimbursable under this Agreement, is Five Hundred Fourteen Thousand Dollars (\$514,000).
  - b. Project Costs include necessary costs and expenses of labor and material used in the construction of the Project and construction inspection and staking for the Project.
  - c. The Project Costs shall be allocated between the parties as follows:
    - i. The Board shall provide financial assistance for the Project in an amount up to but not exceeding Fifty Percent (50%) of the Project Costs. However, the Board's financial obligation under this Agreement shall be limited to an amount not to exceed Two Hundred Thirty Nine Thousand Dollars (\$239,000). For purposes of this Agreement, Project Costs shall not include any portion of costs which are to be paid by or on behalf of any state or federal governmental entity or for which the City may be reimbursed through any source other than the general residents or taxpayers of the City. Further, it is understood and agreed by the parties hereto that the Board shall not participate in, nor pay any portion of, the Costs incurred for or related to the following:
      1. Land acquisition, right-of-way acquisition, or utility relocation;
      2. Legal fees and expenses, design engineering services, Project administration, or financing costs;

3. Taxes, licensing or permit fees, title reports, insurance premiums, exactions, recording fees, or similar charges;
4. Project overruns;
5. Project scope modifications or major change orders which are not separately and specifically approved and authorized by the Board; and;
6. Minor change orders which are not separately and specifically approved and authorized by the Director of Public Works & Infrastructure of Johnson County, Kansas ("Public Works Director"). Minor change orders are those which do not significantly alter the scope of the Project and which are consistent with the CARS Program Policies and Guidelines and administrative procedures thereto adopted by the Board.

It is further understood and agreed that notwithstanding the designated amount of any expenditure authorization or fund appropriation, the Board shall only be obligated to pay for the authorized percentage of actual construction costs incurred or expended for the Project under appropriate, publicly bid, construction contracts. The Board will not be assessed for any improvement district created pursuant to K.S.A. 12-6a01 et seq., and amendments thereto, or any other improvement district created under the laws of the State of Kansas.

- ii. The City shall pay One Hundred Percent (100%) of all Project Costs not expressly the Board's obligation to pay as provided in this Agreement.

3. **Financing**

- a. The Board shall provide financial assistance, as provided in Paragraph 2.c. above, towards the cost of the Project with funds budgeted, authorized, and appropriated by the Board and which are unencumbered revenues that are on-hand in deposits of Johnson County, Kansas. This paragraph shall not be construed as limiting the ability of the Board to finance its portion of the costs and expenses of the Project through the issuance of bonds or any other legally authorized method.
- b. The City shall pay its portion of the Project Costs with funds budgeted, authorized, and appropriated by the governing body of the City.

4. **Administration of Project.** The Project shall be administered by the City, acting by and through its designated representative who shall be the City public official designated as Project Administrator. The Project Administrator shall assume and perform the following duties:

- a. Cause the making of all contracts, duly authorized and approved, for retaining consulting engineers to design and estimate the Project Costs.
- b. Submit a copy of the plans and specifications for the Project to the Johnson County Public Works Director for review, prior to any advertisement for construction bidding, together with a statement of estimated Project Costs which reflects the Board's financial obligation under the terms of this Agreement. The Public Works Director or his designee shall review the copy of the plans and specifications for the Project and may, but shall not be obligated to, suggest changes or revisions to the plans and specifications.
- c. If required by applicable state or federal statutes, solicit bids for the construction of the Project by publication in the official newspaper of the City. In the solicitation of bids, the appropriate combination of best bids shall be determined by the City.
- d. Cause the making of all contracts and appropriate change orders, duly authorized and approved, for the construction of the Project.
- e. Submit to the Public Works Director a statement of actual costs and expenses in the form of a payment request, with attached copies of all invoices and supporting materials, on or before the tenth day of each month following the

month in which costs and expenses have been paid. The Public Works Director shall review the statement or payment request to determine whether the statement or payment request is properly submitted and documented and, upon concurrence with the Finance Director of Johnson County, Kansas, ("Finance Director") cause payment to be made to the City of the Board's portion of the Project Costs within thirty (30) days after receipt of such payment request. In the event federal or state agencies require, as a condition to state or federal participation in the Project, that the Board make payment prior to construction or at times other than set forth in this subsection, the Public Works Director and the Finance Director may authorize such payment.

- f. Except when doing so would violate a state or federal rule or regulation, cause a sign to be erected in the immediate vicinity of the Project upon commencement of construction identifying the Project as part of the CARS Program. The form and location of the sign shall be subject to the review and approval of the Public Works Director.

Upon completion of the construction of the Project, the Project Administrator shall submit to each of the parties a final accounting of all Project Costs incurred in the Project for the purpose of apportioning the same among the parties as provided in this Agreement. It is expressly understood and agreed that in no event shall the final accounting obligate the parties for a greater proportion of financial participation than that set out in Paragraph 2.c. of this Agreement. The final accounting of Project Costs shall be submitted by the Project Administrator no later than sixty (60) days following the completion of the Project construction.

It is further understood and agreed by the City that to the extent permitted by law and subject to the provisions of the Kansas Tort Claims Act including but not limited to maximum liability and immunity provisions, the City agrees to indemnify and hold the County, its officials, and agents harmless from any cost, expense, or liability not expressly agreed to by the County which result from the negligent acts or omissions of the City or its employees or which result from the City's compliance with the Policy and Procedures.

This agreement to indemnify shall not run in favor of or benefit any liability insurer or third party.

In addition, the City of Gardner shall, and hereby agree to, insert as a special provision of its contract with the general contractor ("Project Contractor") chosen to undertake the Project construction as contemplated by this Agreement the following paragraphs:

The Project Contractor shall defend, indemnify and save the Board of County Commissioners of Johnson County, Kansas and the City of Gardner harmless from and against all liability for damages, costs, and expenses arising out of any claim, suit, action or otherwise for injuries and/or damages sustained to persons or property by reason of the negligence or other actionable fault of the Project Contractor, his or her sub-contractors, agents or employees in the performance of this contract.

The Board of County Commissioners of Johnson County, Kansas shall be named as an additional insured on all policies of insurance issued to the Project Contractor and required by the terms of his/her agreement with the City.

**5. Acquisition of Real Property for the Project**

- a. The Board shall not pay any costs for acquisition of real property in connection with the Project.
- b. The City shall be responsible for the acquisition of any real property, together with improvements thereon, located within the City's corporate boundaries, which is required in connection with the Project; such real property acquisition may occur by gift, purchase, or by condemnation as authorized and provided by the Eminent Domain Procedure Act, K.S.A. 26-201 et seq. and K.S.A. 26-501 et seq., and any such acquisition shall comply with all federal and state law requirements.

6. **Duration and Termination of Agreement**

- a. The parties agree that this Agreement shall remain in full force and effect until the completion of the Project, unless otherwise terminated as provided for in Paragraph 6.b. herein below. The Project shall be deemed completed and this Agreement shall be deemed terminated upon written certification to each of the parties by the Project Administrator that the Project has been accepted as constructed. The City shall provide a copy of the Project Administrator's certification to both the Public Works Director and the Finance Director within thirty (30) days of the Project Administrator's determination that the Project is complete.
- b. It is understood and agreed that the Public Works Director shall review the status of the Project annually on the first day of March following the execution of this Agreement to determine whether satisfactory progress is being made on the Project by the City. In the event that the Public Works Director determines that satisfactory progress is not being made on the Project due to the City's breach of this Agreement by not meeting the agreed upon project deadlines or otherwise not complying with the terms of this Agreement, the Public Works Director is authorized to notify the City that it shall have thirty (30) days from receipt of such notification to take steps to cure the breach (the "Cure Period"). It is further understood and agreed that the Board shall have the option and right to revoke funding approval for the Project and terminate this Agreement should the Board find, based upon the determination of the Public Works Director, that satisfactory progress is not being made on the Project and that the City has not taken sufficient steps to cure the breach during the Cure Period. Should the Board exercise its option as provided herein, it shall send written notice of the same to the City and the Board shall have no further liability or obligation under this Agreement.

7. **Placing Agreement in Force.** The attorney for the City shall cause sufficient copies of this Agreement to be executed to provide each party with a duly executed copy of this Agreement for its official records.



IN WITNESS WHEREOF, the above and foregoing Agreement has been executed by each of the parties hereto and made effective on the day and year first above written.

**Board of County Commissioners of  
Johnson County, Kansas**

**City of Gardner, Kansas**

---

Ed Eilert, Chairman

---

Steve Shute, Mayor

Attest:

Attest:

---

Lynda Sader  
Deputy County Clerk

---

City Clerk

Approved as to form:

Approved as to form:

---

Robert A. Ford  
Assistant County Counselor

---

City Attorney

## COUNCIL ACTION FORM

## CONSENT AGENDA ITEM NO. 9

**MEETING DATE:** JANUARY 21, 2020

**STAFF CONTACT:** MICHAEL KRAMER, DIRECTOR OF PUBLIC WORKS

---

**Agenda Item:** Consider authorizing the execution of a Change Order with Lan-Tel for the Pavement Management Program-Concrete.

**Strategic Priority:** Infrastructure and Asset Management  
Fiscal Stewardship  
Quality of Life

**Department:** Public Works

---

### **Staff Recommendation:**

Staff recommends authorizing the City Administrator to execute a Change Order with Lan-Tel for the Pavement Management Program-Concrete in an amount not to exceed \$149,516.00.

### **Background/Description of Item:**

The concrete portion of the 2019 Pavement Management program was bid in September of 2019. Lan-Tel was awarded a contract based on their bid of \$494,258.00 at the October 7, 2019 regular council meeting. Lan-Tel's bid was approximately \$70,000 lower than the second bidder. Lan-Tel has performed well on the current project, and is approximately 75% complete.

The plans for the 2020 pavement management are nearly complete, with bidding scheduled for February. A few streets have been added to the 2020 surface treatment project, including McKinley St. from Locust to Center; McKinley Ln. west of Pine; Warren St. from Pine to Center, and Meadowbrook from Main to Warren. This change order consists primarily of curb replacement, street crack repairs and sidewalk ramp replacement on these streets.

As discussed at the December Council Work Session, the contractor has agreed to extend the unit prices from the 2019 contract for the streets added to the 2020 Pavement Management Program. The change order amount, based on these unit prices, is \$149,516.00.

The work outlined in the original contract for the 2019 Pavement Management Program-Concrete was to be substantially complete by April 15, 2020. The date will be extended to May 1, 2020 with this change order.

### **Financial Impact:**

Funding for \$149,516.00 change order will come from the City's infrastructure sales tax.

### **Attachment Included:**

Change Order No. 1

### **Suggested Motion:**

Authorize the City Administrator to execute a change order with Lan-Tel for the Pavement Management Program-Concrete in an amount not to exceed \$149,516.00.



## CHANGE ORDER

PROJECT NAME: 2019 Pavement Management  
Program (Concrete)

Change Order No.

1

CONTRACTOR: Lan-Tel

Date: 1/21/2020

Project No. PW1903

Reason for change order:

Added 2020 curb and supplemental curb for 2019

Description of work:

Additional curb was added for 2020 resurfacing program and supplemental curb added to 2019 project.

Item	Description	Quantity	Units	Unit Price	Amount
1	Remove Exist. Concrete	759	SF	\$2.00	\$1,518.00
2	Concrete (4")	112	SF	\$6.00	\$672.00
3	Concrete (6")	48	SF	\$7.00	\$336.00
4	Concrete (7")	600	SF	\$7.00	\$4,200.00
5	ADA Panels (2'x4')	3	EACH	\$350.00	\$1,050.00
6	Curb < 8'	0	LF	\$42.00	\$0.00
7	Curb 8'-20	11	LF	\$36.00	\$396.00
8	Curb 21'-40'	31	LF	\$32.00	\$992.00
9	Curb 41'-100'	708	LF	\$26.50	\$18,762.00
10	Curb > 100'	1,960	LF	\$26.50	\$51,940.00
11	Valley Gutter (2')	0	LF	\$0.00	\$0.00
12	2' Wide Crack Repair	100	LF	\$26.50	\$2,650.00
13	Storm Sewer	1	LS	\$15,000.00	\$15,000.00
14	Seeding	2	ACRE	\$3,000.00	\$6,000.00
15	Force Account	1	LS	\$20,000.00	\$46,000.00
				<b>TOTAL</b>	<b>149,516.00</b>

### NOT VALID UNTIL SIGNED BY THE OWNER, ENGINEER AND CONTRACTOR

Original Contract Total .....	\$494,258.00
Net change by previously authorized Change Orders.....	\$0
Current Change Order amount .....	\$149,516.00
New Contract Total including this Change Order .....	\$643,774.00

The Contract Time will be increased by 15 days

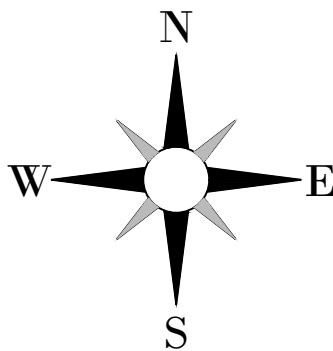
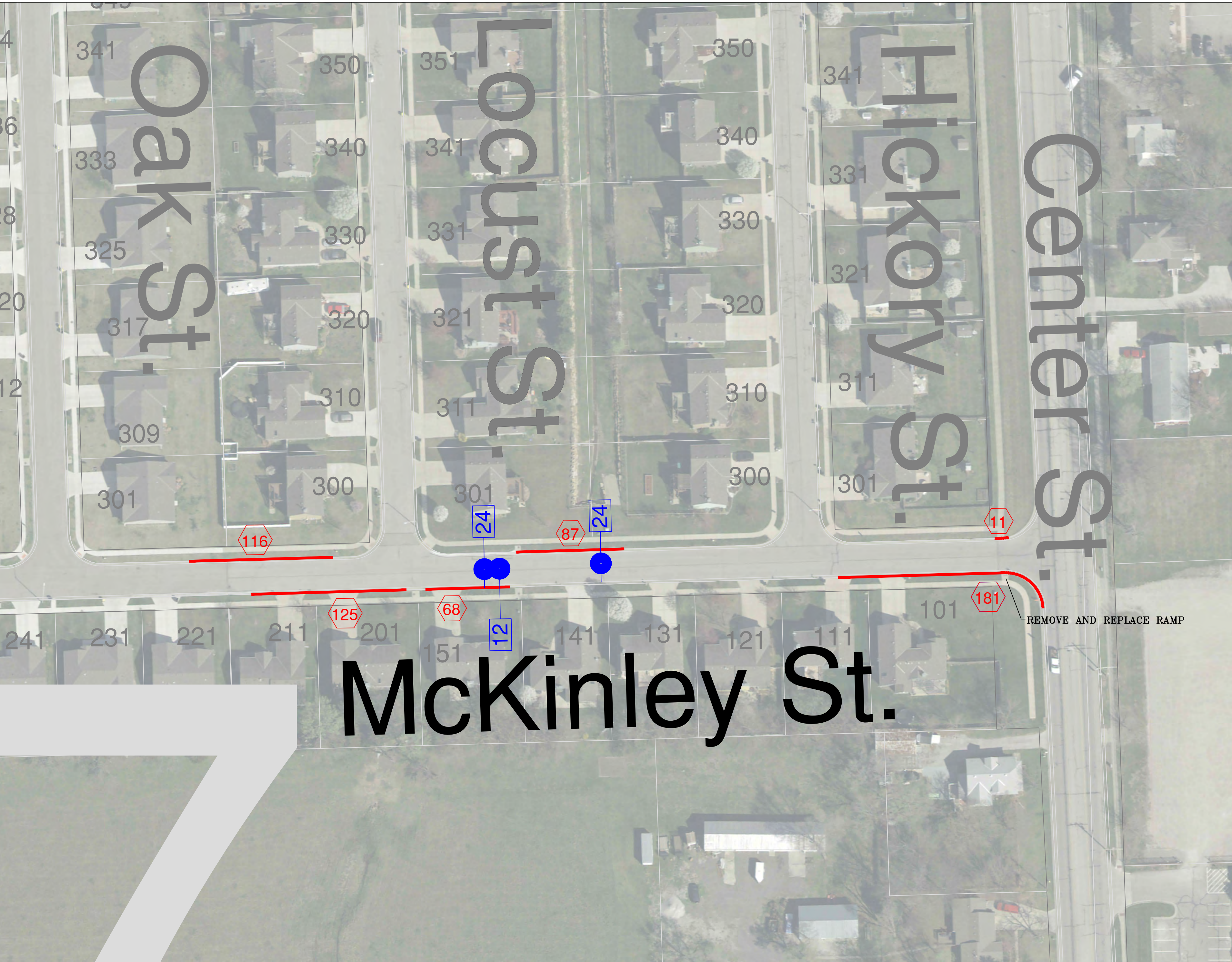
NOTES: This summary does not reflect changes in the Contract, Sum, Contract Time or Guaranteed Maximum Price, which have been authorized by Construction Change Directive.



*City of Gardner*  
Public Works Department  
120 E Main Street, Gardner, Kansas 66030  
PH: (913)856-0914    FX: (913)856-0995

_____ ( <b>Engineer</b> Signature)	_____ (Printed Name)	_____ Date:
_____ ( <b>Contractor</b> Signature)	_____ (Printed name)	_____ Date:
_____ ( <b>City of Gardner</b> Signature)	_____ (Printed Name)	_____ Date:
_____	_____	_____
<div></div>		





SCALE: 1"=100'

LEGEND OF SYMBOLS

2' WIDE CRACK REPAIR - LENGTH (L.F.)

CURB TO BE REPLACED - LENGTH (L.F.)

AREA 17

CONCRETE PLANS

2020 PVMT. MGMT. PROGRAM

GARDNER, KANSAS

Revisions:		No.	Date	By	App.

Date: 8/16/19

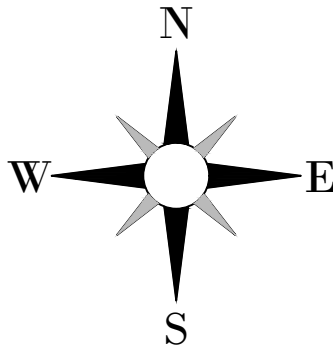
Drawn By: MAP

Designed By: MAP

Checked By: MK

CPN: PW-1902





SCALE: 1"=100'

LEGEND OF SYMBOLS

2' WIDE CRACK REPAIR - LENGTH (L.F.)

CURB TO BE REPLACED - LENGTH (L.F.)

AREA 22

CONCRETE PLANS

2020 PVMT. MGMT. PROGRAM

GARDNER, KANSAS

No.	Date	By	App.	Revisions:







**COUNCIL ACTION FORM****CONSENT AGENDA ITEM NO. 10****MEETING DATE: JANUARY 21, 2020****STAFF CONTACT: JASON BRUCE, PARKS & RECREATION DIRECTOR**

---

**Agenda Item:** Consider authorizing an agreement with CivicRec to provide parks and recreation software services**Strategic Priority:** Infrastructure  
Asset and Infrastructure Management**Department:** Parks and Recreation

---

**Staff Recommendation:**

Staff recommends authorizing the City Administrator to enter into an agreement with CivicRec to provide parks and recreation software services.

**Background/Description of Item:**

Currently, the Parks and Recreation Department utilizes Active.net to manage all reservations, activity registrations, point-of-sale operations, memberships and reporting. The software program costs the City, on average, \$38,450.00 per year. In addition, Active.net is a dated software program that is not user-friendly to both the customer and staff. Over the past several years, many issues have been discovered within the system. Some examples include, but are not limited to: user profiles becoming duplicated and creating program registration issues, activity listing limitations during program implementation, and difficulty in working with Active.net customer support when needed.

CivicRec is a cloud-based system, which allows access at any time and has low infrastructure costs, requiring no in-house servers. The up-to-date software is very user-friendly to both the customer and staff. In addition to providing a cost savings to the city, this system will allow users new customized features throughout the program. Staff will be able to provide better customer service, as well as market programs and events more efficiently and effectively.

Per the City's purchasing policy, three quotes were obtained and summarized below:

<b><u>Active.net</u></b>		
<b>Category</b>	<b>Price</b>	<b>Total</b>
<b>Initial Costs</b>	\$0.00	\$0.00
<b>Annual CC Payments</b>		\$21,359.00
		<b>\$21,359.00</b>
<b>Category</b>	<b>Price</b>	<b>Total</b>
<b>Ongoing Annual Costs</b>	\$17,100.00	<b>\$17,100.00</b>
<b>TOTAL ANNUAL COST</b>		<b>\$38,459.00</b>



<b><u>CivicPlus-(CivicRec)</u></b>		
<b>Category</b>	<b>Price</b>	<b>Total</b>
<b>Initial Costs</b>	\$29,147.00	\$29,147.00
<b>Annual CC Payments</b>		\$15,955.00
<b>TOTAL</b>		<b>\$45,102.00</b>
<b>Ongoing Annual Costs</b>	\$16,322.02	\$16,322.02
<b>FIRST YEAR COST</b>		<b>\$45,102.00</b>
<b>TOTAL ANNUAL COST</b>		<b>\$32,277.02</b>

<b><u>VSI-(Rec Trac)</u></b>		
<b>Category</b>	<b>Price</b>	<b>Total</b>
<b>Initial Costs</b>	\$35,028.00	\$35,028.00
<b>Annual CC Payments</b>		\$15,955.00
<b>TOTAL</b>		<b>\$50,983.00</b>
<b>Category</b>	<b>Price</b>	<b>Total</b>
<b>Ongoing Annual Costs</b>	\$17,394.00	\$17,394.00
<b>FIRST YEAR COST</b>		<b>\$50,983.00</b>
<b>TOTAL ANNUAL COST</b>		<b>\$33,349.00</b>

Council action is required in order to approve the new terms of the agreement with CivicRec. The technical specifications and agreement have been reviewed and approved by the Information Technology Specialist and City Attorney.

**Financial Impact:**

The total cost of the CivicRec software for 2020 is \$45,102. The \$29,147 of initial costs includes both the first year of annual software costs and implementation costs. Annual credit card payments and implementation costs will be paid from the Parks and Recreation Budget in the General Fund. Ongoing annual software costs (of approximately \$16,332.02) will be paid from the Information Technology Fund. All credit card fees will be absorbed by the City, as has been done in the past.

**Attachments:**

- CivicRec agreement

**Suggested Motion:**

Authorize the City Administrator to enter into an agreement with CivicRec to provide parks and recreation software services



## CivicPlus

302 South 4th St. Suite 500  
Manhattan, KS 66502  
US

Master Services Agreement:  
Gardner KS

THIS Master Services Agreement (“Agreement”) is agreed to by and between CivicPlus, LLC., d/b/a CivicPlus (“CivicPlus”) and Gardner KS; (“Client”) (referred to individually as “Party” and jointly as “Parties”) and shall be effective as of the later date of signing indicated at the end of this Agreement (“Effective Date”).

### RECITALS

**I. WHEREAS**, CivicPlus is engaged in the business of developing, marketing and selling custom community engagement and government management platforms and services that include but are not limited to web sites, web interfaces and portals and proprietary software systems and associated modules; in addition to project development, design, implementation, support and hosting services for same;

**II. WHEREAS**, Client wishes to engage in a relationship with CivicPlus for such services and/or license for the development and use of proprietary software developed and owned by CivicPlus;

**III. WHEREAS**, Client and CivicPlus have agreed to certain terms as set forth in this Agreement by this written instrument duly executed by the Parties;

**NOW, THEREFORE**, Client and CivicPlus agree as follows:

#### Term & Termination

1. This Agreement shall commence on the date set forth below and shall remain in full force and effect during the term of any associated or attached Statement of Work (“SOW”) between CivicPlus and Client. This Agreement and any associated or attached SOW will continue under the conditions set forth herein until terminated by either Party as specifically authorized herein.
2. Either Party may terminate this Agreement or any associated SOW at the end of the SOW term by providing the other Party with 60 days’ written notice prior to the SOW renewal date.
3. Upon termination of this Agreement or any associated or attached SOW, the licenses granted for such relevant SOW by Section 15, below, will terminate; Client shall cease all use of the CivicPlus Property (as defined herein) associated with the terminated SOW.
4. Notwithstanding the above, in the event this Agreement or any SOW is terminated, for any reason, prior to payment in full being made by Client for work completed by CivicPlus, any outstanding invoices or future planned billing for the development of Client’s chosen government management platform and/or services, as defined in the SOW (“Project Development”), shall immediately become due in full.

#### Statements of Work

5. CivicPlus agrees to perform services and/or produce deliverables in accordance with the SOW in consideration of the fees owed by Client in described in the same SOW. Multiple and successive SOW may be entered into and shall be attached hereto. Such SOWs are incorporated into this Agreement by reference and subject to the terms & conditions contained herein pursuant to Section 27.

### **Invoicing & Payment Terms**

6. Invoices shall be sent electronically to the individual/entity designated in the SOW's contact sheet, to be filled out and submitted by Client. Client shall provide accurate, current and complete information of Client's legal business name, address, email address, and phone number, and maintain and promptly update this information if it should change. Upon request CivicPlus will mail invoices, and the Client will be charged a \$5.00 convenience fee.

7. Payment is due 30 days from date of invoice. Unless otherwise limited by law, a finance charge of 1.5 percent (%) per month or \$5.00, whichever is greater, will be added to past due accounts. Payments received will be applied first to finance charges, then to the oldest outstanding invoice(s).

8. If the Client's account exceeds 60 days past due, support will be discontinued until the Client's account is made current. If the Client's account exceeds 90 days past due, Annual Services will be discontinued, and the Client website, modules, interfaces or portals will no longer be active until the Client's account is made current. Client will be given 30 days' notice prior to discontinuation of services for non-payment.

9. If the Client requests a change in the timeline set forth and agreed upon at the beginning of the services, and such change causes CivicPlus to incur additional expenses (i.e. airline change fees, consultant fees), Client agrees to reimburse CivicPlus for those fees. Not to exceed \$1,000 per CivicPlus resource per trip. CivicPlus shall notify Client prior to incurring such expenses and shall only incur those expenses which are approved by Client.

### **Ownership & Content Responsibility**

10. Upon full and complete payment of submitted invoices for any SOW Project Development Fees, Client will own the website graphic designs, webpage or software content, module content, importable/exportable data, and archived information as created by CivicPlus on behalf of Client pursuant to this Agreement ("Customer Content").

11. Upon completion of any SOW Project Development, Client will assume full responsibility for website, software or module content maintenance and administration. Client, not CivicPlus, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Content.

12. Client agrees that CivicPlus shall not migrate, convert, or port content or information that could reasonably be construed to be time-sensitive, such as calendar or blog content, in any Project Development.

13. Client will make a reasonable attempt to work with CivicPlus, if requested, to create a news item to be released in conjunction with their project Go-Live date. Client will provide CivicPlus with contact information for local and regional media outlets. CivicPlus may use the press release in any marketing materials as desired throughout the term of this Agreement.

### **Intellectual Property & Ownership**

14. Intellectual Property of any software or other original works created by CivicPlus prior to the execution of this Agreement ("CivicPlus Property") will remain the property of CivicPlus. Client shall not (i) license, sublicense, sell, resell, reproduce, transfer, assign, distribute or otherwise commercially exploit or make available to any third party any CivicPlus Property in any way; (ii) modify or make derivative works based upon any CivicPlus Property; (iii) create Internet "links" to the CivicPlus Property software or "frame" or "mirror" any CivicPlus Property administrative access on any other server or wireless or Internet-based device; or (iv) reverse engineer or access any CivicPlus Property in order to (a) build a competitive product or service, (b) build a product using similar ideas, features, functions or graphics of any CivicPlus Property, or (c) copy any ideas, features, functions or graphics of

any CivicPlus Property. The CivicPlus name, the CivicPlus logo, and the product and module names associated with any CivicPlus Property are trademarks of CivicPlus, and no right or license is granted to use them.

15. Provided Client complies with the terms and conditions herein, the relevant SOW, and license restrictions set forth in Section 14, CivicPlus hereby grants Client a limited, nontransferable, nonexclusive, license to access and use the CivicPlus Property associated with any valid and effective SOW associated with this Agreement, for the term of the respective SOW.

### **Indemnification**

16. To the extent permitted by the law of Client's state, Client and CivicPlus shall defend, indemnify and hold the other Party, its partners, employees, and agents harmless from and against any and all lawsuits, claims, demands, penalties, losses, fines, liabilities, damages, and expenses including attorney's fees of any kind, without limitation, arising out of the negligent actions and omissions, or intentionally malicious actions or omissions of the indemnifying Party or its partners, employees, and agents, directly associated with this Agreement and the operations and installation of software contemplated by this Agreement. This section shall not apply to the extent that any lawsuits, claims, demands, penalties, losses, fines, liabilities, damages, and expenses is caused by the negligence or willful misconduct on the part of the other Party.

### **Client Responsibilities**

17. CivicPlus will not be liable for any act, omission of act, negligence or defect in the quality of service of any underlying carrier, licensor or other third-party service provider whose facilities or services are used in furnishing any portion of the service received by the Client.

18. CivicPlus will not be liable for any failure of performance that is caused by or the result of any act or omission by Client or any entity employed/contracted on the Client's behalf.

19. Client agrees that it is solely responsible for any solicitation, collection, storage, or other use of end-users' personal data on any website or online service provided by CivicPlus. Client further agrees that CivicPlus has no responsibility for the use or storage of end-users' personal data in connection with the website or the consequences of the solicitation, collection, storage, or other use by Client or by any third party of personal data.

20. To the extent it may apply to any service or deliverable of any SOW, user logins are for designated individuals chosen by Client ("Users") and cannot be shared or used by more than one User. Client will be responsible for the confidentiality and use of User's passwords and User names. Client will also be responsible for all electronic communications, including those containing business information, account registration, account holder information, financial information, Client data, and all other data of any kind contained within emails or otherwise entered electronically through any CivicPlus Property or under Client's account. CivicPlus will act as though Client will have sent any electronic communications it receives under Client's passwords, user name, and/or account number. Client shall use commercially reasonable efforts to prevent unauthorized access to or use of any CivicPlus Property and shall promptly notify CivicPlus of any unauthorized access or use of any CivicPlus Property and any loss or theft or unauthorized use of any User's password or name and/or user personal information.

21. Client shall comply with all applicable local, state, and federal laws, treaties, regulations, and conventions in connection with its use of any of the services or CivicPlus Property.

### **Limitation of Liability**

22. CivicPlus' liability arising out of or related to this Agreement, or any associated SOW, will not exceed the Annual Services Fee paid by Client in the year prior to such claim of liability.

23. In no event will CivicPlus be liable to Client for any consequential, indirect, special, incidental, or punitive damages arising out of or related to this Agreement.

24. The liabilities limited by Section 22 and 23 apply: (a) to liability for negligence; (b) regardless of the form of action, whether in contract, tort, strict product liability, or otherwise; (c) even if Client is advised in advance of the possibility of the damages in question and even if such damages were foreseeable; and (d) even if Client's remedies fail of their essential purposes. If applicable law limits the application of the provisions of this Limitation of Liability section, CivicPlus' liability will be limited to the maximum extent permissible.

### **Force Majeure**

25. No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by force majeure, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civic disturbance, riot, war, national emergency, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

### **Taxes**

26. It is CivicPlus' policy to pass through sales tax in those jurisdictions where such tax is required. If the Client is tax-exempt, the Client must provide CivicPlus proof of their tax-exempt status, within fifteen (15) days of contract signing, and the fees owed by Client under this Agreement will not be taxed. If the Client's state taxation laws change, the Client will begin to be charged sales tax in accordance with their jurisdiction's tax requirements and CivicPlus has the right to collect payment from the Client for past due taxes.

### **Other Documents**

27. The following, if applicable, are to be attached to and made part of this Agreement:

- a. Any Addendum and/or Amendments to this Agreement signed by both Parties;
- b. Exhibit A - Statement(s) of Work;
- b. Service Agreement Sales Forms;
- c. Service Agreements previously executed between the Parties; and
- d. Custom Development / Retainer Agreement

28. In the event of conflict with an attachment to this Agreement, this main body of this Agreement will govern. Notwithstanding the foregoing, no SOW or other attachment incorporated into this Agreement after execution of this main body of this Agreement will be construed to amend this main body unless it specifically states its intent to do so and cites the section or sections amended.

29. This Agreement and all attachments hereto sets forth the entire agreement of the Parties and supersedes all prior or contemporaneous writings, negotiations, and discussions with respect to its subject matter.

### **Interlocal Purchasing Consent**

30. With the prior approval of CivicPlus, which may be withheld for any or no reason within CivicPlus' sole discretion, this Agreement and any attached SOWs may be extended to any public entity in Client's home-state to purchase at the SOW prices and specifications in accordance with the terms stated herein.

### **Miscellaneous Provisions**

31. The invalidity, in whole or in part, of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

32. No amendment, assignment or change to this Agreement or any included SOW shall be effective unless by a written instrument executed by each of the Parties.

33. This Agreement may be executed in one or more counterparts. Each counterpart will be an original, but all such counterparts will constitute a single instrument.

34. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each Party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such Party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such Party and enforceable in accordance with its terms.

### Acceptance

We, the undersigned, agreeing to the conditions specified in this document, understand and consent to the terms & conditions of this Agreement.

Client	CivicPlus
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

Please sign and email to Jessica Kehler at [kehler@civicplus.com](mailto:kehler@civicplus.com) or fax to

Sign and E-mail the  
entire  
contract with exhibits to:

<mailto:contracts@civicplus.com>

Signature pages sent without the entire contract attached will not be accepted. We will e-mail a counter-signed copy of the contract back to you once we begin your project.

CivicPlus does not require a physical copy of the contract, however, if you would like a physical copy of the contract, mail one (1) copy of the contract with original signature to:

CivicPlus Contract Manager

302 S. 4th Street, Suite 500  
Manhattan, KS 66502

Upon receipt of signed original, we will counter-sign and return the copy for your files.

**Master Service Agreement and Statement of Work  
Addendum**

**THIS Master Services Agreement and Statement of Work Addendum (“Addendum”)** hereby sets forth the (i) additional terms and conditions applicable to the Master Services Agreement and/or Statement of Work (“Agreements”) and/or (ii) amendments to specific provisions of the terms and conditions which exist in the Agreements (collectively, the “Special Terms”), as described below. The Special Terms shall be deemed to amend, modify, supplement, replace and/or supersede (as applicable) any inconsistent provisions of the Agreements, to the extent of the inconsistency.

ALL TERMS AND CONDITIONS OF THE AGREEMENTS NOT EXPRESSLEY MODIFIED HEREIN SHALL REMAIN IN FULL FORCE AND EFFECT.

Capitalized terms used and not defined herein shall have the meanings assigned to them in the Agreements (to which this Addendum is attached and incorporated).

**1. AMENDMENTS**

The terms and conditions of the Agreement are hereby amended as follows:

Document and Section	Amended Language
MSA #2	Either Party may terminate this Agreement or any associated SOW as provided within the SOW or at the end of the SOW term by providing the other Party with 60 days’ written notice prior to the SOW renewal date.
MSA #4	Notwithstanding the above, in the event this Agreement or any SOW is terminated, for any reason, prior to payment in full being made by Client for work completed by CivicPlus, any outstanding invoices or future planned billing for work actually performed prior to the delivery of the notice of termination for the development of Client’s chosen government management platform and/or services, as defined in the SOW (“Project Development”), shall immediately become due in full upon submission of an invoice for such outstanding amounts.
MSA #17	CivicPlus will not be liable for any act, omission of act, negligence or defect in the quality of service of any underlying carrier, licensor or other third-party service provider whose facilities or services are used in furnishing any portion of the service received by the Client. This exclusion from liability does not extend to CivicPlus or any subcontractors, assigns or agents of CivicPlus.
MSA #19	Client agrees that it is solely responsible for any solicitation, collection, storage, or other use of end-users’ personal data on any website or online service provided by CivicPlus. Client further agrees that CivicPlus has no responsibility for the use or storage of end-users’ personal data in connection with the website or the consequences of the solicitation, collection, storage, or other use by Client or by any third party of personal data. This provision does not exclude CivicPlus from liability for any data breaches which are the cause of CivicPlus’ actions or omissions.
MSA #20	To the extent it may apply to any service or deliverable of any SOW, user logins are for designated individuals chosen by Client (“Users”) and cannot be shared or used by more than one User. Client will be responsible for the confidentiality and use of User’s passwords and User names. Client will also be responsible for all electronic communications, including those containing business information, account registration, account holder information, financial information, Client data, and all other data of any kind contained within emails or otherwise entered electronically through any CivicPlus Property or under Client’s account. CivicPlus will act as though Client will have sent any electronic communications it receives under Client’s passwords, user name, and/or account number. Client shall use commercially reasonable efforts to prevent unauthorized access to or use of any CivicPlus Property and shall promptly notify CivicPlus of any unauthorized access or use of any CivicPlus Property and any loss or theft or unauthorized use of any User’s password or name and/or user personal information. This provision does not exclude CivicPlus from liability for any data breaches which are the cause of CivicPlus’ actions or omissions.

MSA #22	Other than CivicPlus' indemnity obligations stated herein, CivicPlus' liability to Client arising out of or related to this Agreement, or any associated SOW, will not exceed the Annual Services Fee paid by Client in the year prior to such claim of liability, or the limitation of liability within an applicable policy of insurance held by CivicPlus, whichever is greater.
MSA #23	Other than CivicPlus' indemnity obligations stated herein, in no event will CivicPlus be liable to Client for any consequential, indirect, special, incidental, or punitive damages arising out of or related to this Agreement.

### Acceptance

We, the undersigned, agreeing to the conditions specified in this document, understand and consent to the terms & conditions of this Addendum.

**Client**

**CivicPlus**

By:

By:

Name:

Name:

Title:

Title:

Date:

Date:



**CivicPlus**

302 South 4th St. Suite 500  
Manhattan, KS 66502  
US

**Quote #:**  
**Date:**  
**Expires On:**  
**Product:**

Q-05344-1  
9/25/2019 1:21 PM  
12/31/2019  
CivicRec

**Ship To**

Jason Bruce  
Gardner KS - CivicRec

**Bill To**

Gardner KS - CivicRec

SALESPERSON	Phone	EMAIL	DELIVERY METHOD	PAYMENT METHOD
Jessica Kehler	x	<a href="mailto:kebler@civicplus.com">kebler@civicplus.com</a>		Net 30

**Exhibit A.1 - Statement of Work**

QTY	Product Name	DESCRIPTION	TOTAL
1.00	CivicRec Premium	Premium Package -Project Coordination - Branded Public Portal -Help Center Access -Access to Live Project Support - Named Implementation Consultant	\$3,700.00
4.00	Virtual Training (Half Day Block)	Training (Virtual) - half day, up to 4 hours	\$2,500.00
1.00	Virtual Consulting (Half Day Block)	Consulting (Virtual) - half day, up to 4 hours	\$625.00
1.00	CivicRec Annual Fee	CivicRec Annual Fee	\$16,322.02
1.00	CP Pay Annual Fee	CP Pay Annual Fee	\$0.00
1.00	CP Pay Implementation	CP Pay Implementation Fee	\$0.00
1.00	Location/Facility Import	Location/Facility Import - Imports locations & facilities into new system.	\$2,000.00
1.00	Activities Import	Activities Import	\$2,000.00
1.00	Future Facility Reservation Import	Future Facility Rentals Import	\$2,000.00
<b>TOTAL:</b>			<b>\$29,147.02</b>

Total Days of Quote:365

One Time Costs	\$12,825.00
Recurring Costs	\$16,322.02

\* Recurring Costs stated herein are based upon the number of days stated above.  
Upon renewal of this SOW, the Recurring Costs will reflect a 365 day calendar year.

1. Performance and payment under this SOW shall be subject to the terms & conditions of the Agreement by and between Client and CivicPlus, to which this Statement of Work (SOW) is hereby attached.

2. This SOW shall remain in effect for an initial term of one year (12 months) from signing. In the event that neither party gives 60 days' notice to terminate prior to the end of the initial or any subsequent renewal term, this Agreement will automatically renew for an additional 1-year Renewal Term.

3. The Total First Year Fees (total of One-Time Costs and Recurring Cost) shall be invoiced as follows:

a. Upon signing of this SOW – one half of the Total First Year Fees;

b. The earlier of 6 months from signing or upon completed implementation of the CivicRec Recreation Management Software – the remaining half of the Total First Year Fees.

4. Renewal Term Annual Services Fees (Recurring Costs) shall be invoiced on the date of signature of relevant calendar years beginning with the second year of service. Annual services, including but not limited to hosting, support and maintenance services, shall be subject to a 5% annual increase beginning in Year 3 of service.

5. The Client's Annual Services Fees agreed upon herein are based on Client processing up to \$820,202.00 of revenue per year ("Predicted Processing Volume"). Starting with the first renewal year of this SOW, CivicPlus reserves the right (but not the obligation) to audit Client once every 12 months to determine Client's actual processing volume ("Actual Processing Volume"). In the event Client's Actual Processing Volume exceeds the Predicted Processing Volume, CivicPlus will notify client in writing within 30 days of the audit of the Actual Processing Volume and the applicable proposed increase in the Annual Fees resulting from such Actual Processing Volume. Client shall have thirty (30) days following delivery of such written notice within which to either accept the proposed increase in Annual Fees or to terminate this Agreement. If accepted, the increase in the Annual Fees shall be implemented the first of the month following acceptance of the Annual Fee increase.

6. All amounts owed to CivicPlus hereunder are fully-earned upon provision of the Services Provided, as described in Addendum 1, to the extent that such services are provided to the standard stated within this paragraph, are not subject to withholding or off-set in any manner whatsoever, such amounts are non-refundable upon payment subject only to a clear demonstration of an accounting error. Client expressly acknowledges and agrees that Client is familiar with the proposed Services Provided and CivicPlus' billing process. CivicPlus shall perform all work hereunder in a manner consistent with the level of competency and standard of care normally observed by a person practicing in CivicPlus' profession. Client has relied upon the professional ability and training of CivicPlus as a material inducement to enter into this Agreement. CivicPlus hereby agrees to provide all services under this Agreement in accordance with generally accepted professional practices and standards of care, as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of CivicPlus' work by City shall not operate as a waiver or release of liability. If Client determines that any of CivicPlus' work is not in accordance with such level of competency and standard of care, Client shall have the right to do any or all of the following: (a) require CivicPlus to meet with Client to review the quality of work and resolve matters of concern; (b) require CivicPlus to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement; or (d) pursue any and all other remedies at law or in equity.

7. For the purposes of obtaining merchant account services through CP Pay, Client may utilize the designated merchant account for CivicRec through an integrated partnership with OpenEdge ("CP Pay Merchant"). In the event Client chooses CP Pay Merchant, Client will enter into a merchant account agreement with OpenEdge. Such agreement's terms and conditions will solely enure to the benefit and obligation of Client; CivicPlus shall not be a party to such agreement. In the event Client chooses CP Pay Merchant, CivicPlus will facilitate Client and CP Pay Merchant communication for contracting purposes and shall integrate the CP Pay Merchant account processor at no charge to Client. Client agrees to comply with all terms and conditions of the resulting merchant account agreement and pay all fees required to maintain the services. If Client desires to use an integrated merchant account processor gateway besides the designated CP Pay Merchant, an integration fee will be included in Client's implementation fees. Client agrees to comply with all terms and conditions of the resulting merchant account agreement and pay all fees required to maintain the services. Client acknowledges that the fees set forth in this SOW do not include any transaction, processing or other fees imposed by Client's merchant account processor. Client is fully responsible for their relationship with their selected processor. In no event will CivicPlus: (i) take part in negotiations, (ii) pay any fees

incumbent on the Client or merchant account, or (iii) acquire any liability for the performance of services of any chosen merchant account processor, including CP Pay Merchant.

8. When Client uses CP Pay, then Client may take online credit card payments for certain services or products they provide via the Client websites supported by CivicPlus. As such, through CP Pay, CivicPlus facilitates an automated process for redirecting credit card payments to Client's chosen payment gateways / merchant account processors. For card payments, CivicPlus will redirect any payments processing to the Client's merchant account processor gateway, and the merchant account processor gateway presents the payment form page and processes the card payment. CivicPlus

does not transmit, process or store cardholder data and does not present the payment form. CivicPlus implements and maintains PCI compliant controls for the system components and applications that provide the redirection services only.

## Acceptance

We, the undersigned, agreeing to the conditions specified in this document, understand and authorize the provision of services outlined in this Agreement.

Client	CivicPlus
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____
_____	_____

### Addendum 1 to Exhibit A.1 – Services Provided

Services provided by CivicPlus to the Client under this agreement include the following:

**Access:** CivicPlus hereby grants a nonexclusive license during the term of the Agreement for the Client to access, use and display the CivicPlus item(s) listed in the SOW in accordance with the terms of the Agreement. Excluding occasional maintenance, the Software shall be available 24 hours per day, seven days per week with a guaranteed uptime of 99%. The Portal is accessible via the public Internet from any device with an Internet connection and browser. .

**Documentation:** All CivicPlus startup and user's guides are maintained electronically in the system and can be accessed through the "Help Center" from within CivicPlus. CivicPlus does not provide paper copies of its guides and help files.

**Data Backups:** CivicPlus currently performs backups daily of all of its data (6:00 AM). In case of emergency, CivicPlus may restore data to the point of the previous backup.

**Enhancements:** New features will be added throughout the term of this Agreement. Client will have full access to all of these new features without additional charge. Client is also encouraged to submit change requests as they see opportunities for improvement. CivicPlus will attempt to implement any and all changes that improve the value of CivicPlus to all of our Clients at no charge. Notwithstanding the foregoing, all custom work will be estimated and agreed upon in writing by the parties hereto prior to work start.

**Client Support:** CivicPlus shall provide an online utility for problem reports and change requests. Client may also reach CivicPlus by phone at 1-800-335-1863 between the hours of 7:00 AM and 7:00 PM Central Standard Time, Monday through Friday and excluding national holidays. E-mail support is also available at [support@CivicPlus.com](mailto:support@CivicPlus.com). Non-emergency after-hours support may be subject to additional fees. Emergencies will be handled as soon as possible. Enhancement requests will be queued based on priority and implemented on a schedule. CivicPlus shall have sole and absolute discretion as to whether support requests exceed reasonable use or exceed the scope of services outlined in this Agreement.

**Data:** In the event Client no longer wishes to use CivicPlus, CivicPlus will export Client data based on a requested format (in most cases). If the data exporting request is initiated by Client, additional fees may apply. All work will be estimated and agreed upon in writing by the parties hereto prior to work start.

## Contact Information

\*all documents must be returned: Master Service Agreement, Statement of Work, and Contact Information Sheet.

### Organization

URL

Street Address

Address 2

City

State

Postal Code

CivicPlus provides telephone support for all trained clients from 7am –7pm Central Time, Monday-Friday (excluding holidays).  
Emergency Support is provided on a 24/7/365 basis for representatives named by the Client. Client is responsible for  
ensuring CivicPlus has current updates.

### Emergency Contact & Mobile Phone

### Emergency Contact & Mobile Phone

### Emergency Contact & Mobile Phone

### Billing Contact

E-Mail

Phone

Ext.

Fax

Billing Address

Address 2

City

State

Postal Code

Tax ID #

Sales Tax Exempt #

Billing Terms

Account Rep

Info Required on Invoice (PO or Job #)

### Contract Contact

Email

Phone

Ext.

Fax

### Project Contact

Email

Phone

Ext.

Fax

## COUNCIL ACTION FORM

## CONSENT AGENDA ITEM NO. 11

**MEETING DATE:** JANUARY 21, 2020

**STAFF CONTACT:** JAMES BELCHER, CHIEF OF POLICE

---

**Agenda Item:** Consider authorizing the purchase of ten portable radios and related equipment from Ka-Comm, Inc.

**Strategic Priority:** Increase Infrastructure and Asset Management

**Department:** Police Department

---

### **Staff Recommendation:**

Staff recommends the purchase of ten (10) Harris XL-185 portable radios from Ka-Comm. The total cost for the thirteen radios is \$34,940.30.

### **Background/Description of Item:**

The Gardner Police Department currently maintains thirty-seven (37) portable radios. Seven (7) of those portables are APX4000 models that were manufactured in 2016 and are being carried by officers on a daily basis. Three (3) are Motorola XTS1500 and XTS2500 models that were manufactured between 2005 and 2010. The remaining twenty-seven (27) are Harris Model XL-185 radios.

The Motorola XTS1500 and XTS2500 portables are no longer being serviced by Motorola or a licensed Motorola repair service, as the parts for those radios are no longer manufactured. The Gardner Police Department obtained a grant in 2015 from Firehouse Subs to purchase seven (7) Motorola APX4000 radios. Those radios should be serviceable for the next 8-10 years at least.

The Gardner Police Department purchased eleven (11) Harris XL-185 radios in 2018 and thirteen (16) more in 2019. It was the intention of the Gardner Police Department, through approved budgets, to purchase a similar number of portable radios in 2020. The plan was to replace all Motorola XTS1500 and XTS2500 radios before they became obsolete. The remaining seven (7) Motorola APX4000 radios are to be kept as spare radios to be used in emergencies and as backups if a Harris radio is broken.

This final purchase of ten (10) Harris XL-185 radios will complete the project and will equip all Police personnel who are issued portable radios with a Harris XL-185 radio. As the Department adds personnel that would be issued portable radios, the cost of the radio will be figured into that process.

### **Financial Impact:**

The 2020 budget includes \$36,900 for the purchase of portable radios for Patrol operations.

### **Other Impacts:**

N/A

### **Attachments included:**

- Quote from Ka-Comm, Inc. for the purchase of Harris XL-185 portable radios.
- Product Sheet from Harris on the XI-185P portable radio

**Suggested Motion:**

Authorize the City Administrator to purchase ten (10) Harris XL-185 portable radios from Ka-Comm, Inc., in an amount not to exceed \$34,940.30.



# KA-COMM, INC

1201 W. Old 56 Highway  
Olathe, KS 66061  
(913) 764-7314  
(913) 764-7514 Fax  
www.ka-comminc.com  
joe@ka-comminc.com

## Quote

Date	Quote #
1/6/2020	20504

<b>Customer:</b>
GARDNER POLICE DEPT. 16540 MOONLIGHT RD. GARDNER, KS 66030

		P.O. No.	Terms	Rep	Freight Charges
			Due on receipt	JDO	FOB
Item	Description	Qty	Cost	Total	
	HARRIS XL-185 PORTABLE RADIO - SINGLE BAND ONLY				
XS-PPS1M	XS-PPS1M, PORTABLE, XL-185P, 7/800 MHZ, PARTIAL KEY-PAD, BLACK, US	10	1,475.95	14,759.50	
XS-NC8F	XS-NC8F, ANTENNA, WHIP, 1/4 WAVE, 762-870MHZ	10	25.20	252.00	
XS-PKGPT	XS-PKGPT, FEATURE PACKAGE, P25 TRUNKING	10	1,079.98	10,799.80	
XS-PL8Y	XS-PL8Y, FEATURE, ENCRYPTION LITE	10	0.00	0.00	
XS-PL9E	XS-PL9E, FEATURE, SINGLE-KEY AES ENCRYPTION	10	0.00	0.00	
XS-PA3V	XS-PA3V, BATTERY, LI-ION, 3100 MAH	10	108.01	1,080.10	
XS-CH4X	XS-CH4X, CHARGER, 1-BAY, XL-185P	10	108.01	1,080.10	
XS-HC3L	XS-HC3L, BELT CLIP, METAL	10	18.00	180.00	
XS-Y3EWP	XS-Y3EWP, WARRANTY, EXTENDED, 3 YR, PORTABLE (2 YEAR INCLUDED - 5 YEAR TOTAL)	10	200.00	2,000.00	
	BASE FEATURES ABOVE - OPTIONAL FEATURES BELOW CAN BE ADDED LATER OR AT TIME OF ORDER				
XS-PKG8F	XS-PKG8F, FEATURE, 256-AES, 64-DES ENCRYPTION	10	500.38	5,003.80	
Quote is valid for 90 days!			Subtotal		
			Sales Tax (0.0%)		
			Total		

Signature:

Quote is valid for 90 days!





## KA-COMM, INC

1201 W. Old 56 Highway  
Olathe, KS 66061  
(913) 764-7314  
(913) 764-7514 Fax  
www.ka-comminc.com  
joe@ka-comminc.com

## Quote

Date	Quote #
1/6/2020	20504

<b>Customer:</b>
GARDNER POLICE DEPT. 16540 MOONLIGHT RD. GARDNER, KS 66030

		P.O. No.	Terms	Rep	Freight Charges	
			Due on receipt	JDO	FOB	
Item	Description	Qty	Cost		Total	
XS-PL5L	XS-PL5L, FEATURE, P25 OTAR (OVER-THE-AIR-REKEYING)	0	428.39		0.00	
XS-CH5A	XS-CH5A, CHARGER, 6-BAY, XL-185P	0	572.38		0.00	
XS-AE4B	XS-AE4B, SPEAKER MICROPHONE, EMERGENCY	10	144.00		1,440.00	
XS-AE3Z	XS-AE3Z, EARPHONE, LAPEL MICROPHONE	0	46.80		0.00	
XS-HC4K	XS-HC4K, CASE, LEATHER, PREMIUM, BELT LOOP, D-SWIVEL	0	100.80		0.00	
	MARC CONTRACT 64 DISCOUNT APPLIED					
PROGRAMMING	PROGRAMMING, PROGRAMMING OF RADIO (NO CHARGE FOR INITIAL PROGRAMMING)	10	0.00		0.00	
SHIPPING	SHIPPING AND HANDLING	1	85.00		85.00	
DISCOUNT - NO...	DISCOUNT - TRADE-IN PROGRAM MBP # 16802 (\$435.00 PER TRADE-IN PORTABLE X4 = \$1740.00) MUST PROVIDE S/N AT TIME OF ORDER		-1,740.00		-1,740.00	
Quote is valid for 90 days!			<b>Subtotal</b>		\$34,940.30	

**Sales Tax (0.0%)** \$0.00

**Total** \$34,940.30

Signature: \_\_\_\_\_

Quote is valid for 90 days!



## ADVANCED CONNECTIVITY IN EXTREME ENVIRONMENTS

### KEY FEATURES

Optional cell modem for voice and data wherever cellular/LTE is available

Extends PTT coverage worldwide via Wi-Fi through Harris BeOn® application

Compact and lightweight, ruggedized to withstand extreme conditions

Built-in GPS, Bluetooth®, Active Noise Cancellation, and 4-position A-B-C-D switching is standard

# XL-185P PORTABLE CONVERGED LTE LAND MOBILE RADIO

The Harris XL-185P is the industry's first and only single-band LTE LMR radio. Capable of operating on VHF, UHF, 700/800 or 900 MHz frequencies, this converged P25 portable merges robust LMR communications with voice and data over cellular, LTE and Wi-Fi®. The XL-185P is open standards-based, Verizon Certified and Band 14 ready, giving organizations a flexible upgrade path to emerging capabilities and networks as needs change.

Engineered for top performance in severe conditions, the XL-185P is an ideal, economical choice for public safety and utility workers. The portable features a ruggedized aluminum I-beam frame and meets MIL-STD-810G for durability, including Method 511.5 for explosive atmospheres and Method 504.1 for contamination by fluids, so it can be scrubbed with cleansers and biological sanitizers.

The XL-185P delivers industry-leading, loud audio powered by a 1.5 watt/ 4 watt max amplifier with woofer and tweeter speakers—and advanced

noise cancellation technologies suppressing audio feedback to provide clear communications through a wide range of conditions.

Compact and lightweight, the XL-185P fits naturally into users' hands, with controls shaped for fast, easy, gloved-hand operation. The color-coded display and easy-access A-B-C-D switching allows fast identification and selection of priority talk groups. First responders also avoid missing critical calls through the portable's ability to instantly recall and replay received audio.



## SPECIFICATIONS FOR: XL-185P PORTABLE RADIO

### GENERAL

Radio Models:		
Full Keypad	TFT LCD w/DTMF keypad, navigation cluster, soft keys	
Partial Keypad	TFT LCD w/partial keypad, navigation cluster, soft keys	
Dimensions w/Battery (H x W x D)	5.8 x 2.3 x 1.4 in (148.0 x 60.0 x 36.0 mm)	
Weight	w/Battery and Antenna 16.2 oz (464 g)	w/o Battery and Antenna 10.4 oz (296 g)
Housing Colors	Midnight black, high-visibility yellow	
Interfaces:		
Front Display	320 x 178 pixels, 1.8 inch transfective LCD, 16-bit color with backlight	
Top Display	128 x 32 pixels, OLED 1.1 inch multi-color backlight, sunlight readable	
Keypad	Backlight, 3 soft keys, 5-way navigation key, full DTMF keypad	
Buttons	Large PTT button, on/off knob, volume knob, red emergency button, 16-position top-mounted rotary knob, 2-position concentric switch, 4-position toggle switch, 3 programmable side buttons	
Tx/Rx Indicator	Multi-colored LEDs	
Channel/Talkgroup Capacity	1,250 total conventional channels and 13,824 total talkgroups	
Radio Programming	Firmware, personalities and feature set over Wi-Fi	
Transceiver	Supported Bands VHF, UHF, 700/800 MHz, 900 MHz, and LTE	Channel Capacity 12,500 (1,250 per mission plan)
Environmental:		
Relative Humidity	5% @ 140°F (+60°C), 95% @ 122°F (+50°C)	
Vibration	USDA LMR Standard, Section 2.15 and MIL-STD-810G, Test Method 514.6	
Drop Shock	1.5 meter drop to concrete (exceeds TIA-603-D)	
Immersion <sup>1</sup>	2 meters for 4 hours in accordance with MIL-STD-810G/IP68	
Operating Temperature <sup>2</sup>	-22°F to +140°F (-30°C to +60°C)	
Storage Temperature <sup>3</sup>	-40°F to +176°F (-40°C to +80°C)	
Altitude	Operational 15,000 feet (4,572 meters)	In Transit 50,000 feet (15,240 meters)
Electrical Input Voltage	7.5 VDC (nominal)	
GPS/GNSS Specifications:	P25 standard Tier 2 and Harris in-band	
Channels	52	
Tracking Sensitivity (dBm)	-166 (GPS), -163 (GLONASS)	
Acquisition Sensitivity (dBm)	-146 (GPS)	
Cold Start w/-130 dBm input	<35 seconds	
Hot Start w/-130 dBm input	<1 second	
Safety:		
Hazardous Location Options		
RoHS Compliant		

<sup>1</sup> Optional feature

<sup>2</sup> Extreme low temperatures adversely affect battery life and audio power/ distortion

<sup>3</sup> Store batteries at +25°C ± 5°C

### LMR TRANSMITTER

Frequency Bands	VHF	UHF	700/800 MHz	900 MHz
<b>Frequency Ranges (MHz)</b>				
Option 1 (US)	136-174	378-522	768-776, 798-806, 806-816, 851-861	896-902, 935-944
Option 2 (International)	136-174	378-522	763-776, 793-806, 806-825, 851-870	896-902, 935-944
<b>Rated RF Power/Talkaround (W)</b>	1-6	1-5	0.5-3	0.5-3.5
<b>Frequency Stability (-30 to +60°C)</b>	±1.0 ppm	±1.0ppm	±1.0 ppm	±1.0 ppm
<b>Modulation Limiting (kHz)</b>	2.5, 4, 5 (FM)	2.5, 4, 5 (FM)	2.5, 4, 5 (FM)	2.5, 4, 5 (FM)
<b>Audio Response (dB)</b>	+1/-3	+1/-3	+1/-3	+1/-3
<b>Spurious and Harmonics (dBc)</b>	-80 (FCC Part 90)	-80 (FCC Part 90)	-80 (FCC Part 90)	-80 (FCC Part 90)
<b>FM Hum and Noise Companion Receiver (dB):</b>				
@ 25 kHz	70	60	55	55
@ 12.5 kHz	47	47	45	45
<b>Audio Distortion (%)</b>	<1.25	<1.25	<1.25	<1.25
<b>Project 25 Modulation Fidelity (%)</b>	1.0	1.0	1.0	1.0
<b>Project 25 Adjacent Channel Power (dBc)</b>	>71	>71	>71	>70



## SPECIFICATIONS FOR: XL-185P PORTABLE RADIO

### REGULATORY DATA

Frequency Range	RF Output	Frequency Stability	FCC Type Acceptance No.	Applicable FCC Rules	Industry Canada Certification No.	Applicable Industry Canada Rules	NTIA Cert. No.
136 - 174 MHz	6 W	±1.0 ppm	OWDTR-0150-E	22, 74, 80, 90	3636B-0150	RSS-119	SPS-217 49/1
378 - 522 MHz	5 W	±1.0 ppm	OWDTR-0149-E	22, 74, 80, 91	3636B-0149	RSS-119	SPS-217 49/1
768 - 776 MHz	3 W	±1.0 ppm	OWDTR-0147-E & OWDTR-0148-E	90	3636B-0147	RSS-119	
798 - 806 MHz	3 W	±1.0 ppm	OWDTR-0147-E & OWDTR-0148-E	90	3636B-0147	RSS-119	
806 - 816 MHz	3 W	±1.0 ppm	OWDTR-0147-E	90	3636B-0147	RSS-119	
806 - 825 MHz	3 W	±1.0 ppm	OWDTR-0148-E	90	3636B-0148	RSS-119	
851 - 861 MHz	3 W	±1.0 ppm	OWDTR-0147-E	90	3636B-0147	RSS-119	
851 - 869 MHz	3 W	±1.0 ppm	OWDTR-0148-E	90	3636B-0148	RSS-119	
896 - 901 MHz	3w	±1.0 ppm	OWDTR-0143-E	90, 24D, 101	3636B-0143	RSS-119	
901 - 902 MHz	3w	±1.0 ppm	OWDTR-0143-E	90, 24D, 101	3636B-0143	RSS-119	
940 - 941 MHz	3w	±1.0 ppm	OWDTR-0143-E	90, 24D, 101	3636B-0143	RSS-119	
935 - 940 MHz	3w	±1.0 ppm	OWDTR-0143-E	90, 24D, 101	3636B-0143	RSS-119	
941 - 944 MHz	3w	±1.0 ppm	OWDTR-0143-E	90, 24D, 101	3636B-0143	RSS-119	
VHF single band	0.2 W	N/A	OWDTR-0150-E	15	3636B-0150	RSS-119	
2402 - 2460 MHz UHF single band	0.2 W	N/A	OWDTR-0149-E	15	3636B-0149	RSS-119	
RB single band	0.2 W	N/A	OWDTR-0147-E	15	3636B-0147	RSS-119	
NRB single band	0.2 W	N/A	OWDTR-0148-E	15	3636B-0148	RSS-119	
VHF single band	.01 W	N/A	OWDTR-0150-E	15	3636B-0150	RSS-119	
5180 - 5825 MHz UHF single band	.01 W	N/A	OWDTR-0149-E	15	3636B-0149	RSS-119	
RB single band	.01 W	N/A	OWDTR-0147-E	15	3636B-0147	RSS-119	
NRB single band	.01 W	N/A	OWDTR-0148-E	15	3636B-0148	RSS-119	

### LMR RECEIVER

Frequency Bands	VHF	UHF	700/800 MHz	900 MHz
Frequency Ranges (MHz):				
Option 1 (US)	136-174	378-522	768-776, 851-861	935-944
Option 2 (International)	136-174	378-522	763-776, 851-870	935-944
Channel Spacing (kHz)	25 (wideband), 12.5 (narrowband), 6.25 equiv (TDMA P25 Phase 2)		25 (wideband), 12.5 (narrowband), 6.25 equiv (TDMA P25 Phase 2)	
Frequency Stability (-30 to +60°C)	±1.0 ppm	±1.0 ppm	±1.0 ppm	±1.0 ppm
Sensitivity (dBm):				
@ 12 dB SINAD	-122	-121	-121 (700 MHz) -120 (800 MHz)	-120 (900 MHz)
Project 25 Reference Sensitivity (dBm):				
@ 5% BER	-122	-121	-120.5	-120.5
Analog Selectivity (dB):				
@ 25 kHz	77	77	74	74
@ 12.5 kHz	71	70	64	64
Project 25 Adjacent Channel Rejection (dB)	66.2	62.2	62	62
Offset Channel Selectivity (dB):				
@ NPSPAC	NA	NA	30	30
Intermodulation (dB)	80	81	77	77
Spurious and Image Rejection (dB)	90	87	80	80
FM Hum and Noise (dB):				
@ 25 kHz	-60	-60	-55	-55
@ 12.5 kHz	-55	-53	-50	-50
Audio Output - Rated/Max (mW)	1500/4000	1500/4000	1500/4000	1500/4000
Audio Distortion @ Rated Power (%)	1.1	1.1	1.1	1.1

### BROADBAND

LTE Protocol	3GPP Release 9, Power Class 3 UE with Rx diversity
Public Safety Broadband	Band 14, 788-798 MHz Tx, 758-768 MHz Rx, 5 or 10 MHz BW
Commercial Broadband	Band 13, 777-787 MHz Tx, 746-756 MHz Rx, 5 or 10 MHz BW
Commercial Broadband	Band 4, 1710-1755 MHz Tx, 2110-2155 MHz Rx, 5, 10, 15, or 20 MHz BW
Wi-Fi	802.11 b/g/n 2.4 GHz and 5 GHz; supports 24 preconfigured and 8 user configured networks
Bluetooth	Bluetooth 4.0 (128-bit encryption)



## SPECIFICATIONS FOR: XL-185P PORTABLE RADIO

### DIGITAL OPERATION

Protocol	ProVoice™	P25
Vocoding Method	AMBE +2™ enhanced full rate	AMBE +2 enhanced full rate and enhanced half rate
Signaling Rate (kbps)	9.6	9.6
Modulation	GFSK	Phase 1 Tx: C4FM, Rx: C4FM and WCQPSK
Harris Failsoft operation	Switch to site trunking mode (for Harris infrastructure) or P25 conventional	

### ENCRYPTION

Encryption Algorithms	Voice Encryption: Single-key AES/DES, Multiple-key AES/DES, DES-OFB, Encryption Lite (ARC4), 256-bit AES P25, 64-bit DES Control Channel Encryption: 128-bit AES (LLA)
Encryption Keys per Radio	Capable of storing 128 keys (128 AES, 64 DES)
Keying	Harris Key Loader, Over-the-Air Rekeying (OTAR), Motorola KVL 3000+/4000
Standards	FIPS 140-2, FIPS 197

### BATTERIES

Type	Dimensions (H x W x D)	Weight	Capacity (mAh)
Li-Ion	3.0 x 2.3 x 0.9 in	4.8 oz (136 g)	3100

Technical specifications are subject to change without notice. Product sales are subject to applicable U.S. export control laws.

### ACCESSORIES

#### Headsets

The XL-185P can be used with a wide variety of headsets and covert audio accessories to provide a complete user-gear solution for the industrial, public safety, utility and transportation markets. Heavy-duty and lightweight headsets are available with in-ear or over-the-ear hearing protection, flexible boom microphones with noise-reduction technology, and standard or remote PTTs. In addition, the XL-185P can be used with Bone Conducting Skull Headsets and Throat Microphone/Headset Kits. Covert audio kits are available in black or beige, 2-wire or 3-wire configurations with ear-piece, microphone and PTT.



3-Wire Mini-Lapel Microphone



Tactical Headset

#### Carrying Cases

Harris offers a versatile line of carrying cases for the XL-185P single-band radio. Options include a standard belt clip and premium belt loop, providing the user a low-profile, integrated carrying option. In addition, a premium leather holster is available for attaching to a belt or wearing with the premium leather shoulder strap.



Belt Clip



Leather Carrying Case

#### Chargers

Harris offers a variety of chargers for the XL-185P including Single-Bay, Multi-Bay and a Vehicular Charger for in-car charging. The chargers are designed to quickly and safely charge battery packs in approximately 1 to 4 hours.



Single-Bay Charger



Multi-Bay Charger\*



Vehicular Charger\*

#### Additional Accessories Available

Bluetooth speaker microphones, Bluetooth covert earpieces, standard speaker microphones, Lithium Ion battery, PC programming software and cables, other subminiature surveillance accessories, and antennas.

Technical specifications are subject to change without notice. Product sales are subject to applicable U.S. export control laws.

\*Accessories unavailable in Brazil

#### About Harris Corporation

Harris Corporation is a leading technology innovator, solving customers' toughest mission-critical challenges by providing solutions that connect, inform and protect. Harris supports government and commercial customers around the world.

Learn more at [harris.com](http://harris.com)

FLORIDA | NEW YORK | VIRGINIA | BRAZIL | UNITED KINGDOM | UAE | SINGAPORE

#### Non-Export Controlled Information

Harris is a registered trademark of Harris Corporation.  
Trademarks and trade names are the property of their respective companies.  
© 2018 Harris Corporation. Available on request. 09/18 DS1895D

**HARRIS**® TECHNOLOGY TO CONNECT,  
INFORM AND PROTECT™

## COUNCIL ACTION FORM

## CONSENT AGENDA ITEM NO. 12

**MEETING DATE:** JANUARY 21, 2020

**STAFF CONTACT:** GONZ GARCIA, UTILITIES DIRECTOR

---

**Agenda Item:** Consider appointing City of Gardner representatives to the Kansas Rural Water Association

**Strategic Priority:** Fiscal Stewardship

**Department:** Utilities – Water Division

---

**Staff Recommendation:**

Staff recommends appointing Jeff LeMire, Utility Senior Staff Engineer, as Delegate and Gonz Garcia, Utilities Director, as Alternate with voting rights to the Kansas Rural Water Association Meeting of Members.

**Background:**

The City of Gardner has been an active member of the Kansas Rural Water Association (KRWA) since 2017. Every year, the KRWA holds an Annual Meeting of Members in Wichita, Kansas. As an active member of the Kansas Rural Water Association, the City may appoint a voting delegate and alternate to the meeting of membership.

**Financial Impact:**

Travel expenses will be paid from the Water Budget.

**Attachments:**

- None

**Suggested Motion:**

Appoint Jeff LeMire as Delegate, and Gonz Garcia as Alternate with voting rights, to the Kansas Rural Water Association Meeting of Members.

## COUNCIL ACTION FORM

## CONSENT AGENDA ITEM NO. 13

**MEETING DATE:** JANUARY 21, 2020

**STAFF CONTACT:** GONZ GARCIA, UTILITIES DIRECTOR

---

**Agenda Item:** Consider authorizing the execution of Amendment 1 to the Hillsdale WTP Expansion Phase 1 Agreement with Burns & McDonnell-CAS Constructors for easement acquisition support

**Strategic Priority:** Infrastructure and Asset Management

**Department:** Utilities – Water Division

---

**Staff Recommendation:**

Staff recommends authorizing an easement acquisition support proposal from Burns & McDonnell in the amount of \$38,705.00 related to the raw water line construction, as part of the Hillsdale Expansion Project.

**Background/Description of Item:**

On August 19, 2019, Staff presented an CAF recommending the authorization of the easement acquisition support proposal from Burns & McDonnell in the amount of \$28,076. That amount was incorrect and did not match the attached proposal from Burns & McDonnell. The correct amount should have been \$38,705, as shown in Amendment 1 (attached).

**Financial Impact:**

Funding for the project is available from Water Budget, CIP Project #WA2002.

**Attachment:**

- Amendment 1

**Suggested Motion:**

Authorize the City Administrator to execute Amendment 1 to Hillsdale WTP Expansion Phase I agreement with Burns & McDonnell-CAS Constructors for easement acquisition support, in the amount of \$38,705.

**AMENDMENT TO THE AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE  
CITY OF GARDNER, KANSAS AND BURNS & MCDONNELL / CAS CONSTRUCTORS,  
GARDNER JOINT VENTURE**

**AMENDMENT No. 1**

**Date: August 19, 2019**

**THIS AMENDMENT** modifies the Agreement dated April 1, 2019 made by and between **Burns & McDonnell / CAS Constructors, Gardner Joint Venture** (hereinafter called Consultant), and The City of Gardner Kansas (hereinafter called OWNER) for the following Project: **Hillsdale Water Treatment Plant Expansion Project, Project # WA-2002**. For good and valuable consideration, the sufficiency of which is acknowledged, the parties agree to make the following changes to their Agreement.

1. The parties agree that the Consultant's Scope of Services is amended to add the following:

Consultant will provide assistance to the Owner in acquiring the necessary easements for instalation of the raw water transmission line form the existng intake to the Hillsdale Treatment Plant site as described in more detail in Attachment A.

2. The following adjustments are made to the Consultant's compensation:

For the Scope of services described in Attachment A, the Consultant's compensation shall be a lump sum of \$38,705.00.

3. The time for completion for the services described in Attachment A is also described therein. The time and milestones described are based on the Owner's approval not later than August 20, 2020.

4. Other changes to the Agreement, if any, are stated below:

None

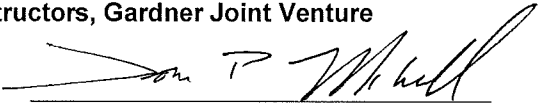
5. The terms of this AMENDMENT supersede any contrary terms of the Agreement. This AMENDMENT will be deemed a part of, and be subject to, all other terms and conditions of the Agreement. Except as modified above, the Agreement will remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this AMENDMENT the day and year first written above.

**OWNER: City of Gardner, Kansas**

**Consultant: Burns & McDonnell / CAS  
Constructors, Gardner Joint Venture**

By: \_\_\_\_\_

By:  \_\_\_\_\_

Name: \_\_\_\_\_

Name: John P Mitchell P.E.

Title: \_\_\_\_\_

Title: Project Manager

**Attest:** \_\_\_\_\_  
City Clerk:

**Approved as to Form:** \_\_\_\_\_  
City Attorney:



## **Attachment A**

### **Scope of Services Easement Acquisition Support**

The City of Gardner, Kansas ("the City") is proposing a new water pipeline ("Project") within the same corridor, and/or parallel to, other existing water pipelines. An additional 20-foot right of way (ROW) will be required to accommodate the new water pipeline. According to completed surveys and ownership and encumbrance reports, up to 15 parcels/13 landowners will be impacted and require new permanent and/or temporary easement area.

For the purposes of this proposal, we are assuming that notice to proceed will be on August 20, 2019 and that we will be providing negotiation and related activities for the Project through January 24, 2020 (22 weeks total). This breaks down as such (assuming no condemnation):

- Determine easement values and initial offers: August 20, 2019 – September 6, 2019.
- Prepare and mail easement packages: September 9, 2019 – September 13, 2019.
- Conduct Landowner Negotiations: September 16, 2019 – January 23, 2020.
- City to file condemnation petitions as necessary by October 24, 2019.
- Continue negotiations with property owners on a parallel path with condemnation proceedings.
- Our goal is to have all easements acquired by the start of the raw water pipeline construction on January 24, 2020; our cost estimate is based on this completion date. If the City requests us to continue negotiations past this date, the total cost will increase.
- Total number of weeks of acquisition support: 22

*Acquisition Approach:* Because this is a small project, we do not believe a full-time ROW agent is necessary, and that most negotiations can be successfully completed via letters (certified, FedEx, USPS) emails and phone calls by in-house Burns & McDonnell staff on a part-time basis. Staff will be located in the Kansas City, Missouri office, which is only a 35-minute drive from the Project area.

*ROW Project Management:* The Burns & McDonnell Land Acquisition Manager will provide oversight of negotiation activities, provide status updates, manage the real estate budget and schedule, and attend scheduled meetings as necessary. The Land Acquisition Manager will coordinate with the client's Lead Real Estate Representative to determine the appropriate reporting mechanisms, metrics and schedule. The Burns & McDonnell Assistant PM will be the primary contact for landowners and will prepare and mail the easement packages. We are assuming that the Burns & McDonnell Land Acquisition Manager or Assistant PM will attend an average of one, one-hour project team meeting per week.

*Records Management/Administration:* Burns & McDonnell will furnish an electronic file for each impacted parcel and keep it up to date with landowner contacts and attempted contacts, documents, title work, photos, and copies of letters and emails. Electronic and/or hard copies of completed files will be turned over to the client upon request. Parcel negotiation status and other parcel/landowner information (to be determined by the City's real estate lead) will be tracked in an Excel spreadsheet.

*Landowner Identification:* Although ownership and encumbrance reports have already been provided identifying the current landowners, our team may use various real estate software to verify ownership or identify adjacent parcels if needed.

*Landowner Notifications/Negotiations:* Using the City's templates, Burns & McDonnell will prepare a landowner package that notifies landowners that easement negotiations are commencing. The packet will include information about the Project and acquisition process, starting offer amount, W-9, easement exhibit, two copies of the easement agreement to execute and notarize, and a pre-paid return FedEx envelope. In the letter, we will offer to meet with the landowner in person if requested, and will include a contact person, email and phone number. This package will be followed up with phone calls to the landowners to initiate discussion.

If a landowner is not responsive to our phone calls, if necessary and practical, we will send emails and/or certified letters attempting to schedule a final in-person meeting to discuss the offer. We will encourage property owners to accept the offer within 30 days of the first formal offer. Executed documents will be recorded within two business days at the Miami County courthouse.

*Landowner Payments:* Burns & McDonnell will request payment for easements and damages via an email request to the City, submitting a pre-approved form, along with copies of supporting documentation. Burns & McDonnell will not maintain electronic copies of W-9s, and any hard copies will be FedEx'd to the City or destroyed, as requested. Electronic W-9's will be delivered to the City via an encrypted file sharing site and not attached to emails. We anticipate that checks will be mailed via FedEx or hand delivered as appropriate. Burns & McDonnell will not pay landowners directly or maintain an escrow account.

*Valuation Study:* Because of the short time frame for negotiations to occur before construction starts, we propose that offers are based on a desktop valuation study, which may include online real estate sites and Miami County appraisal data. Although condemnation is not anticipated, full appraisals will be needed if any parcels require condemnation. Appraisals can be provided on an additional per unit cost if required.

We have conducted an initial limited desktop evaluation (Table 1) of the land in the area for budgetary purposes. These values were derived from the 2019 appraisal/market values of the impacted properties available on the Miami County website: <http://www.miamicountyks.org/144/Real-Property>. The Miami County Appraisal site states: "Real property is appraised for tax purposes at 100% of its fair market value utilizing the cost, income, and comparable sales approaches to value with the exception of agricultural land. Agricultural land is appraised for taxes at its use value based on its income producing capability. It is also appraised at its fair market value."

The budgetary land cost estimate assumes 100% of market value will be offered for permanent and temporary easement area. This estimate is merely a starting point for discussions of valuing the easements and may increase or decrease based on specific property characteristics and individual landowner negotiations. Costs for damages, culverts, laydown yards and/or temporary access roads are not included in this estimate.

Table 1.

Land Type*	Average Appraised Value/Acre	Total Acres – Permanent Esmt	Total Acres – Temp. Esmt	Budgetary Estimate of Land Cost (at 100% market value)
Farm Homesite	\$2,042.00	2.43	2.14	\$22,917
Residential	\$8,325.00	.67	.15	\$5,159
<b>TOTAL</b>				<b>\$28,076</b>

\*There are two government/exempt parcels and a water treatment plant that are not included in this estimate.

*Impasse:* If an impasse is reached and a property owner refuses to execute the easement agreement after an approved number of days of negotiating, then the file will be turned over to the City's legal team for condemnation. Our real estate specialists will be available to continue negotiating with landowners that enter the eminent domain process. It is our experience that sustained negotiations with consistent land agents during condemnation often result in settlements with landowners.

*Construction Support:* Not included.

*Cost Estimate (Table 2):* Over the 22 weeks between kickoff and construction start, we are assuming an approximately 1.5 hours per week for the Project Manager to provide high-level oversight, and approximately 7 hours per week for the Assistant PM/Negotiator. The cost estimate does not include the cost of land/easements or damage payments. Estimate is not a not-to-exceed cost. Successful negotiations are highly dependent upon landowners' availability and willingness to participate in negotiations.

Table 2.

Labor	Rate	Unit	Total Units	Cost
Real Estate Project Manager	\$228.00	Hour	40	\$ 9,120
Real Estate APM/Negotiator	\$170.00	Hour	140	\$23,800
<b>Expenses</b>				
Mileage	\$ .56	Mile	1,100	\$ 616
Postage	\$5.00	Letter	50	\$ 250
Recording Fees	\$15.00	Page	60	\$ 900
Miscellaneous	\$500.00	NA	1	\$ 500
Contingency (10%)				\$3,519
<b>Grand Total</b>				<b>\$38,705</b>

## COUNCIL ACTION FORM

## COMMITTEE RECOMMENDATION NO. 1

**MEETING DATE:** JANUARY 21, 2020

**STAFF CONTACT:** GONZ GARCIA, UTILITIES DIRECTOR

---

**Agenda Item:** Consider a recommendation to implement Private Inflow & Infiltration work as part of the I&I Project

**Strategic Priority:** Increase Infrastructure and Asset Management  
Fiscal Stewardship

**Department:** Utilities - Wastewater

---

### **Committee Recommendation:**

On January 2, 2020, UAC approved a recommendation for the implementation of the Private Inflow & Infiltration work for Drainage Basin 1 as part of Inflow & Infiltration Project, CIP No. WW1706.

### **Staff Recommendation:**

Staff recommends implementing the Private Inflow & Infiltration work for Drainage Basin 1 as part of the I&I Project.

### **Background/Description of Item:**

In 2018, Trekk Design Group, LLC was selected via the RFQ process that included six firms submitting proposals for the Inflow & Infiltration (I&I) program. The 2017 Wastewater Master Plan made recommendations for the City of Gardner to adopt and implement an I&I program. Trekk has performed flow monitoring, flow calculations, and reviewed proposed CIP projects from the 2017 Wastewater Master Plan in 13 drainage basins throughout the City. This information collected has been reviewed and prioritized. Drainage Basin 1 was determined to have the highest I&I and was selected as a "pilot" program.

The I&I program provides prioritization, procedures, schedules, and planning for maintaining and rehabilitation of the existing sanitary storm sewer system throughout the community. This program will improve the efficiency of operation and maintenance provided to the community by the Utility Department.

### **Private I&I Process:**

On November 18, 2018, City Council approved a recommendation from the UAC to move forward with the Private I&I Program. The goal of the Private I&I program is to cost-effectively remove significant sources of I&I on private property that are contributing to excessive wet weather flow to the sanitary sewer system. The private I&I program consists of:

1. Property owner notifications
2. Building evaluations
3. Homeowner agreement for access to make repairs
4. Repair to Inflow Source by local plumber
5. Final Inspection

The notifications, building evaluations, and tracking of these items are already a part of Trekk's overall fees, in which \$89,900 is budgeted for this work that covers 250 homes within the pilot area.

On July 2019, Trekk crews performed smoke testing and reviewed all CCTV videos collected by City crews covering Drainage Basin 1.

It is anticipated that the findings from the pilot-scale abatement program will be used to develop a long-term Private I&I Abatement Program and funding projections for future phases of the Private I&I program.

**Financial Impact:**

This project is part of the CIP and funds are available from the Wastewater Budget.

**Attachments:**

- January 2, 2020, UAC Staff Report
- January 2, 2020, UAC Meeting minutes excerpt
- City Council Meeting Minutes 11/19/18 excerpt

**Suggested Motion:**

Authorize the funding of \$125,000 for the implementation of the Private Inflow & Infiltration work for Drainage Basin 1 as part of Inflow & Infiltration Project, CIP No. WW1706.

**UTILITY ADVISORY COMMISSION STAFF REPORT      NEW BUSINESS ITEM #2**  
**MEETING DATE:      JANUARY 2, 2020**  
**STAFF CONTACT:      GONZ GARCIA, UTILITIES DIRECTOR**

---

**AGENDA ITEM:**      Consider a recommendation to the City Council for the implementation of the Private Inflow & Infiltration work for Basin 1 of the Inflow & Infiltration Project, Project No. WW1706

---

**Background:**

In 2018, Trekk Design Group, LLC was selected via the RFQ process that included six firms submitting proposals for the Inflow & Infiltration (I&I) program. The 2017 Wastewater Master Plan made recommendations for the City of Gardner to adopt and implement an I&I program. Trekk has performed flow monitoring, flow calculations and reviewed proposed CIP projects from the 2017 Wastewater Master Plan in 13 drainage basins throughout the City. This information collected has been reviewed and prioritized. Drainage Basin 1 was determined to have the highest I&I and was selected as a “pilot” program.

The I&I program provides prioritization, procedures, schedules, and planning for maintaining and rehabilitation of the existing sanitary storm sewer system throughout the community. This program will improve the efficiency of operation and maintenance provided to the community by the Utility Department.

**Private I&I Process:**

On November 18, 2018, City Council approved a recommendation from the UAC to move forward with the Private I&I Program. The goal of the Private I&I program is to cost-effectively remove significant sources of I&I on private property that are contributing excessive wet weather flow to the sanitary sewer system. The private I&I program consists of:

1. Property owner notifications
2. Building evaluations
3. Homeowner agreement for access to make repairs
4. Repair to Inflow Source by local plumber
5. Final Inspection

The notifications, building evaluations, and tracking of these items are already apart of Trekk’s overall fees in which \$89,900 is budgeted for this work that covers 250 homes within the pilot area.

On July 2019, Trekk crews performed smoke testing, and review of all CCTV videos collected by City crews covering Drainage Basin 1.

It is anticipated that the findings from the pilot-scale abatement program will be used to develop a long-term Private I&I Abatement Program and funding projections for future phases of the Private I&I program.

**Staff and Committee Recommendation:**

Approve a recommendation to the City Council to fund \$125,000 for the implementation of the Private Inflow & Infiltration work for Drainage Basin 1 as part of Inflow & Infiltration Project, Project No. WW1706.

**Attachments:**

A. City Council Meeting Minutes 11/19/18 excerpt

**RECORD OF PROCEEDINGS  
OF THE UTILITY ADVISORY COMMISSION  
GARDNER, KANSAS**  
Page No. 2019-22  
January 2, 2020

The Utilities Advisory Commission of Gardner, Kansas, met in Regular Session on January 2, 2020, at City Hall. Present were Chairman Gary Williams, Vice Chairman Kristina Harrison, Commissioner Barbara Coleman, Commissioner Andrew Taylor, Utilities Department Director Gonzalo Garcia, and Administrative Assistant Erin Groh.

**CALL TO ORDER**

The meeting was called to order at 7:00 p.m. by Chairman Gary Williams.

**PLEDGE OF ALLEGIANCE**

**PUBLIC COMMENTS**

**CONSENT AGENDA**

1. **Standing approval of the minutes as written for the November 7, 2019, meeting of the Utility Advisory Commission.**

Motion by Commissioner Coleman, seconded by Vice Chairman Harrison, to approve the Consent Agenda.

Motion carried 4-0 Aye

**OLD BUSINESS**

**NEW BUSINESS**

1. **Consider a recommendation to the City Council to procure a High Press CO2 Fire Protection System for the Gas Turbines.**

Director Gonz Garcia presented the staff report.

Director Garcia discussed how the current CO2 system has leaks and no longer meets NFPA suggested design practices and how a new CO2 will allow for us to keep fire protection active when the gas turbines are available in stand-by operation which is the status 99% of the time. Commissioner Coleman asked what the difference was between the two companies who submitted bids. Director Garcia stated that Johnson Controls Fire Protection has to go out and purchase the product from another company and install it, but Keller Fire & Safety represents the manufacturer here in Kansas.

Motion by Commissioner Coleman, seconded by Commissioner Taylor to forward a recommendation to the City Council to accept the low bid from Keller Fire & Safety for a High Pressure CO2 System as received on December 4, 2019 in the amount of \$99,739.

Motion carried 4-0 Aye

2. **Consider a recommendation to the City Council for the implementation of the Private Inflow & Infiltration work for Basin 1 of the Inflow & Infiltration Project, Project No. WW1706.**

Director Gonz Garcia presented the staff report.

Director Garcia discussed how the Inflow & Infiltration program in Gardner provides prioritization, procedures, schedules and planning for maintaining the rehabilitation of the existing sanitary storm sewer system throughout the community. Of the private properties in Gardner, Director Garcia stated that Basin 1 is considered the most urgent of areas to be studied.



Motion by Vice Chairman Harrison, seconded by Commissioner Taylor to forward a recommendation to the City Council to fund \$125,000 for the implementation of the Private Inflow & Infiltration work for Drainage Basin 1 as part of Inflow & Infiltration Project, Project No. WW1706.

Motion carried 4-0 Aye

### **DISCUSSION ITEMS**

#### **1. Project Updates- Electric, Wastewater and Water.**

##### **Director Garcia discussed the Electric project updates:**

Electric Distribution staff is currently collecting data for the Smart Meter Project. Also, the six G&W Automated Overhead Distribution Switches arrived and will be installed in 2020.

##### **Director Garcia gave the Wastewater Treatment project updates:**

Removal of the old blowers and installation of the new Inovair blowers at the Kill Creek Wastewater Treatment Plant has been completed. New concrete steps have been constructed at Kill Creek as well, which are located near the effluent sampler there at the plant.

For the I&I Program, the review of the flow monitoring, smoke testing and CCTV videos for phase 1 have been completed. Prioritization of the Public Manhole and Sewer Mainline repairs have been compiled. The Private I&I portion of the program is being prepared to begin this spring with inspection of properties within the first phase of the program.

##### **Director Garcia gave the Water Treatment project updates:**

The Hillsdale Water Treatment Plant Design Build project is under construction. These are the latest highlights:

- Currently, the project is working through the annexation and permitting process with Miami County and the City's Planning & Building Department.
- The Land Acquisition process is moving forward with the Condemnation process for the easements associated with the RAW waterline improvements that are required to feed the plant water from Hillsdale Lake.
- Site grading is still occurring on site to create the expansion and new lagoons.

### **OTHER BUSINESS**

### **ADJOURNMENT**

Motion by Commissioner Coleman, seconded by Vice Chairman Harrison, to adjourn the meeting at 7:39 p.m.

Motion carried 4-0 Aye

/s/ Erin Groh  
Utilities Department Administrative Assistant

**RECORD OF PROCEEDINGS  
OF THE GOVERNING BODY  
CITY OF GARDNER, KANSAS**

Page No. 2018 - 173  
November 19, 2018

**1. Consider adopting an ordinance approving a conditional use permit for Enterprise Leasing Company of Kansas, LLC for Outdoor Sales – Heavy use**

Todd Parker with Enterprise Leasing stated he is excited for the opportunity as it will make it easier to provide service for local customers and New Century.

Councilmember Gregorcyk made a motion to adopt Ordinance No. 2594 approving a conditional use permit on certain lands located in the City of Gardner, Kansas, under the authority granted by Title 17 of the Municipal Code of the City of Gardner, Kansas (CUP-18-01)

Councilmember Baldwin Seconded.

With all of the Councilmembers voting in favor of the motion, the Ordinance passed and was assigned Ordinance number 2594

Baldwin	Yes
Gregorcyk:	Yes
Melton	Yes
Moore:	Yes
Winters:	Yes

**2. Consider a recommendation to the City Council to move forward with the Private I&I Program as part of the Inflow & Infiltration Study & Analysis Project, Project No. WW1706**

Ron Thomann of TREKK stated when programs are mandatory property owners are reluctant to spend money on something they feel is not their problem. Councilmember Moore stated he is not in favor of a mandatory program.

Mayor Shute stated in one weekend of high flow, \$76,000 more was spent due to inflow and infiltration (I&I). He said the proposition for the private portion of the plan required \$125,000 in funding. He said as the cost of a single weekend was approximately 2/3 the cost of the program, the program made sense from a cost-benefit standpoint.

Senior Staff Engineer Jeff LeMire stated private I&I constituted 75% of the City's I&I problems. He said for every \$1 spent on private I&I, \$10 would be required to fix the public side. He said the first area being considered was low hanging fruit as even during the dry summer that particular basin experienced spikes due to rainfall.

Councilmember Moore asked if this was calculated as part of the rate increase. Interim Finance Director Matthew Wolff stated this was already budgeted for as part of the \$300,000 per year budgeted for I&I. Mayor Shute stated this would be preventative as I&I was more expensive to stop once it entered the system. Councilmember Moore stated a public information campaign would be needed, which would be an additional cost. Councilmember Gregorcyk asked how far out the I&I budget was for. Mr. Wolff stated this was a two-year budget, but it was project for ten years.

Councilmember Gregorcyk asked what participation rate was necessary to make this a viable investment if the program was voluntary. Lucas Gillen from TREKK stated most areas had a 80% - 90% participation rate, though this was lower in areas with rental properties. Councilmember Gregorcyk asked the average cost to the City per house. Mr. Gillen stated the average was approximately \$1,200 per house.

Councilmember Moore made a motion to authorize the City Administrator to move forward with the Private I&I Program as part of the Inflow & Infiltration Study & Analysis Project, Project No. WW1706

Councilmember Melton Seconded.

With all of the Councilmembers voting in favor of the motion, the motion carried.

## COUNCIL ACTION FORM

## COMMITTEE RECOMMENDATION No. 2

**MEETING DATE:** JANUARY 21, 2020

**STAFF CONTACT:** GONZ GARCIA, UTILITIES DIRECTOR

---

**Agenda Item:** Consider a recommendation for a high-pressure CO2 Fire Protection System for the Gas Turbines

**Strategic Priority:** Increase Infrastructure and Asset Management  
Fiscal Stewardship

**Department:** Utilities – Electric Generation

---

### **Committee Recommendation:**

On January 2, 2020, UAC approved a recommendation for a high-pressure CO2 Fire Protection System for the gas turbines.

### **Staff Recommendation:**

Staff recommends accepting the low bid and authorizing an agreement with Keller Fire & Safety for a High Pressure CO2 System, as received on December 4, 2019 in the amount of \$99,739.

### **Background/Description of Item:**

The existing low-pressure CO2 system has leaks and no longer meets NFPA suggested design practices. The CO2 system is supposed to be kept active when our Gas Turbines are available. If we leave the existing CO2 system fully active, it will leak the full content of CO2 in 2-3 days requiring a refill that costs around \$1,500. Therefore, we currently isolate the CO2 system making it non-operational when we're not running the Gas Turbines, which is not the best practice for the operational state of the Gas Turbines as we still have oil circulating and natural gas present up to stop/control valves. The existing CO2 system is old enough that the OEM is no longer around and we have to use 3<sup>rd</sup> party contractors to attempt making repairs. The third party contractors can never guarantee that they'll be able to fix the problems or repair the equipment but we have no choice but to pay them to try, and to date, it hasn't been successful. Over the past five years, the department has spent a total of \$33,900 trying to have contractors service the old outdated equipment. The piping distribution system to release CO2 inside of the gas turbine enclosures no longer meets current NFPA suggested design practice of being schedule 80 piping. The existing piping is schedule 40.

The new system will allow for us to keep fire protection active when our gas turbines are available in stand-by operation (not generating electricity but oil is circulating and natural gas is present up to stop/control valve) which is the status 99% of the time. It will also bring the fire protection system up to the current NFPA suggested design practices. The new system will be a simple system that has fewer mechanical/electrical parts that create maintenance issues. It will consist of high-pressure cylinders that require little to no maintenance and parts will be new and from a company that is still active with readily available spares. With the service life of the existing CO2 system being exceeded, having high costs, and it not being able to fully perform its intended purpose we feel it is necessary to replace it.

**IFB Process:**

City staff issued an Invitation for Bid for Electric Generation – High Pressure CO2 System. The invitation was published in The Gardner News and on the City's website, and picked up by multiple plan rooms. Two (2) bids were received and opened on December 4, 2019.

The bids received for the High Pressure CO2 System project are as follows:

Vendor	Bid Amount
Keller Fire & Safety	\$99,739.00
Johnson Controls Fire Protection	\$134,000.51

**Financial Impact:**

This project is not part of the CIP, but funds are available in the Electric Fund.

**Attachments:**

- January 2, 2020, UAC Staff Report
- January 2, 2020, UAC Meeting minutes excerpt
- Bid Tab for High Pressure CO2 System
- Service Agreement

**Suggested Motion:**

Authorize the City Administrator to execute a contract to install a high-pressure CO2 Fire Protection system with Keller Fire & Safety in the amount of \$99,739.



**UTILITY ADVISORY COMMISSION STAFF REPORT****NEW BUSINESS ITEM #1****MEETING DATE: JANUARY 2, 2020****STAFF CONTACT: MATT PONZER, ELECTRIC GENERATION MANAGER**

---

**AGENDA ITEM:** Consider a recommendation to the City Council to procure a High Pressure CO2 Fire Protection System for the Gas Turbines.

---

**Background:**

The existing low pressure CO2 system has leaks and no longer meets NFPA suggested design practices. The CO2 system is supposed to be kept active when our Gas Turbines are available. If we leave the existing CO2 system fully active it will leak the full content of CO2 in 2-3 days requiring a refill that costs around \$1,500. Therefore, we currently isolate the CO2 system making it non-operational when we're not running the Gas Turbines, which is not the best practice for the operational state of the Gas Turbines as we still have oil circulating and natural gas present up to stop/control valves. The existing CO2 system is old enough that the OEM is no longer around and we have to use 3<sup>rd</sup> party contractors to attempt making repairs. The third party contractors can never guarantee that they'll be able to fix the problems or repair the equipment but we have no choice but to pay them to try, and to date, it hasn't been successful. Over the past five years the department has spent a total of \$33,900 trying to have contractors service the old outdated equipment. The piping distribution system to release CO2 inside of the gas turbine enclosures no longer meets current NFPA suggested design practice of being schedule 80 piping. The existing piping is schedule 40.

The new system will allow for us to keep fire protection active when our gas turbines are available in stand-by operation (not generating electricity but oil is circulating and natural gas is present up to stop/control valve) which is the status 99% of the time. It will also bring the fire protection system up to the current NFPA suggested design practices. The new system will be a simple system that has fewer mechanical/electrical parts that create maintenance issues. It will consist of high pressure cylinders that require little to no maintenance and parts will be new and from a company that is still active with readily available spares. With the service life of the existing CO2 system being exceeded, high costs, and it not being able to fully perform its intended purpose we feel it is necessary to replace it.

**IFB Process:**

City staff issued an Invitation for Bid for Electric Generation – High Pressure CO2 System. The invitation was published in The Gardner News and on the City's website, and also picked up by multiple plan rooms. A total of two (2) bids were received and opened on December 4, 2019.

The bids received for the High Pressure CO2 System project are as follows:

<b>Vendor</b>	<b>Bid Amount</b>
Keller Fire & Safety	\$99,739
Johnson Controls Fire Protection	\$134,000.51

This project is not part of the CIP but funds are available in the Electric Fund.

**Staff Recommendation:**

Approve a recommendation to the City Council to accept the low bid from Keller Fire & Safety for a High Pressure CO2 System as received on December 4, 2019 in the amount of \$99,739.

**Attachments:**

- Bid Tab for High Pressure CO2 System





**RECORD OF PROCEEDINGS  
OF THE UTILITY ADVISORY COMMISSION  
GARDNER, KANSAS**  
Page No. 2019-22  
January 2, 2020

The Utilities Advisory Commission of Gardner, Kansas, met in Regular Session on January 2, 2020, at City Hall. Present were Chairman Gary Williams, Vice Chairman Kristina Harrison, Commissioner Barbara Coleman, Commissioner Andrew Taylor, Utilities Department Director Gonzalo Garcia, and Administrative Assistant Erin Groh.

**CALL TO ORDER**

The meeting was called to order at 7:00 p.m. by Chairman Gary Williams.

**PLEDGE OF ALLEGIANCE**

**PUBLIC COMMENTS**

**CONSENT AGENDA**

1. **Standing approval of the minutes as written for the November 7, 2019, meeting of the Utility Advisory Commission.**

Motion by Commissioner Coleman, seconded by Vice Chairman Harrison, to approve the Consent Agenda.

Motion carried 4-0 Aye

**OLD BUSINESS**

**NEW BUSINESS**

1. **Consider a recommendation to the City Council to procure a High Press CO2 Fire Protection System for the Gas Turbines.**

Director Gonz Garcia presented the staff report.

Director Garcia discussed how the current CO2 system has leaks and no longer meets NFPA suggested design practices and how a new CO2 will allow for us to keep fire protection active when the gas turbines are available in stand-by operation which is the status 99% of the time. Commissioner Coleman asked what the difference was between the two companies who submitted bids. Director Garcia stated that Johnson Controls Fire Protection has to go out and purchase the product from another company and install it, but Keller Fire & Safety represents the manufacturer here in Kansas.

Motion by Commissioner Coleman, seconded by Commissioner Taylor to forward a recommendation to the City Council to accept the low bid from Keller Fire & Safety for a High Pressure CO2 System as received on December 4, 2019 in the amount of \$99,739.

Motion carried 4-0 Aye

2. **Consider a recommendation to the City Council for the implementation of the Private Inflow & Infiltration work for Basin 1 of the Inflow & Infiltration Project, Project No. WW1706.**

Director Gonz Garcia presented the staff report.

Director Garcia discussed how the Inflow & Infiltration program in Gardner provides prioritization, procedures, schedules and planning for maintaining the rehabilitation of the existing sanitary storm sewer system throughout the community. Of the private properties in Gardner, Director Garcia stated that Basin 1 is considered the most urgent of areas to be studied.



High Pressure CO2 System Bids      Closing Date of 12/4/2019 @ 11am  
City of Gardner Utilities Dept.

Company	Bid Amount	Contact Name	Phone	Email
Keller Fire & Safety	\$99,739.00	Chris Knox	816-969-9619	<a href="mailto:chris.knox@kellerfire.com">chris.knox@kellerfire.com</a>
Johnson Controls Fire Protection	\$134,000.51	Michael Frieson	816-527-5609	<a href="mailto:michael.frieson@jci.com">michael.frieson@jci.com</a>



## AGREEMENT BETWEEN CITY AND CONTRACTOR

This agreement ["Agreement"], is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the City of Gardner, Kansas, [hereinafter "City"], and \_\_\_\_\_, [hereinafter referred to as "Contractor"] for the completion of the following described work: High Pressure CO2 System.

### RECITALS

WHEREAS, the City desires to construct and complete the **High Pressure CO2 System**.

WHEREAS, in the judgment of the City of Gardner, it is necessary and desirable to employ the Work of Contractor for the **High Pressure CO2 System**, NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

### AGREEMENT

#### 1.0 Term of Agreement.

The term of this Agreement shall be until the completion of the project and issuance of a Certificate of Final Completion unless a different term is specified within Exhibit A or unless terminated earlier in accordance with the provisions of Article 2 below. In the event that the Work rendered under this Agreement may extend beyond any one budget year, the continuation of this Agreement from year to year is contingent upon the approval of sufficient budgetary authority for the continuation of this Agreement by the Governing Body of the City in the establishment of its annual budget.

#### 2.0 Termination.

2.1 City reserves the right to terminate this Agreement for cause or for convenience and without cause or default by providing ten (10) days written notice of such termination to Contractor. Upon receipt of such notice from City, Contractor shall, at City's option as contained in the notice: (1) immediately cease all work; or (2) meet with the City's Project Representative and, subject to City's approval, determine what work shall be required of Contractor in order to bring the project to a reasonable termination in accordance with the request of the City. If the City terminates this Agreement for convenience and without cause, the City shall compensate Contractor for all work completed to date of its receipt of the termination notice and for any additional work the parties might agree is reasonably necessary to bring the project to a reasonable termination point. Compensation shall not include anticipatory profit or consequential damages, neither of which will be allowed. If the City shall terminate for cause or default on the part of Contractor, City shall compensate Contractor for the reasonable cost of its work completed to date of receipt of its termination notice. Compensation shall not include anticipatory profit or consequential damages, neither of which will be allowed. The

City also retains its rights and remedies against Contractor including but not limited to its rights to sue for damages, interest and attorney fees.

- 2.2 Authority to Terminate. The City Council has the authority to terminate this Agreement on behalf of the City. In addition, the City Administrator or Utilities Department Director, in consultation with the City Attorney, shall have the authority to terminate this Agreement on behalf of the City.

3.0 Work to be Performed.

- 3.1 Contractor's Work. The Work to be performed by Contractor under this Agreement is as described in the Bid Documents, attached and incorporated by reference.

- 3.2 Performance Standard. Contractor represents to City that Contractor is professionally qualified to do this Project and if required, is licensed to practice the Work being offered by all public entities having jurisdiction over Contractor and the Project.

3.3 Assigned Personnel.

- 3.3.1 Contractor shall only assign competent personnel to perform work hereunder. In the event that at any time City, in its sole discretion, desires the removal of any person or persons assigned by Contractor to perform work hereunder, Contractor shall remove such person or persons immediately upon receiving written notice from City.

- 3.3.2 With respect to this Agreement, the Contractor shall employ the following key personnel: not applicable.

- 3.3.3 In the event that any of Contractor's personnel assigned to perform Work under this Agreement become unavailable due to resignation, sickness or other factors outside of Contractor's control, Contractor's shall be responsible for timely provision of adequately qualified replacements.

- 3.3.4 The Contractor shall designate Chris Knox as Principal (name/contact info) on the Project. As principal on this project, this person shall be the primary contact with the Project Representative and shall have authority to bind Contractor. So long as the individual named above remains actively employed or retained by Contractor, he/she shall perform the function of principal on the Project, unless otherwise agreed to in writing signed by both parties. The Contractor will supply a direct name, phone number and email and will notify the City if this contact information changes during the contract period.

- 3.3.5 City shall designate Matt Ponzer as the Project Representative to represent the City in coordinating this project with Contractor, with authority to transmit instructions and define policies and decisions of City. The written consent of the Department Director, and if applicable, City Administrator and/or Governing Body, shall be required to approve any increase in Project cost as defined in the Bid Form.

4.0 Time of Performance.

Unless otherwise provided in this Agreement, Contractor shall commence Work upon the Project within 120 days after execution of this Agreement and shall complete such work within 90 calendar days. The bid prices for services shall remain firm for the entire contract period except through written petition to the Utility Director of the City of Gardner stating reasoning for requesting the increase. This petition shall be reviewed and up to the discretion of the City for approval or disapproval. Should the petition be disapproved, termination of the contract may be initiated through the terms stated herein. Time is of the essence.

5.0 Payment.

- 5.1 City agrees to pay Contractor for the actual work performed on the Project at the rates set forth in the Bid Form, which is attached hereto and incorporated by reference into this Agreement, the total of which shall not exceed a maximum total fee of 226.
- 5.2 Contractor shall bill City monthly for all work performed. The bill submitted by Contractor shall itemize the work for which payment is requested. City agrees to pay Contractor within thirty (30) days of approval. Contractor agrees to submit herewith such financial information as shall be required by City to enable the City to properly report such payments as required by state or federal law.
- 5.3 All invoices should be sent to City of Gardner, Utilities Department, 1150 E. Santa Fe Street, Gardner, KS 66030.

6.0 Cash Basis and Budget Laws.

The right of the City to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. 10-1112 and 10-1113), the Budget Law (K.S.A. 79-2935), and other laws of the State of Kansas. This Agreement shall be construed and interpreted so as to ensure that the City shall at all times stay in conformity with such laws, and as a condition of this Agreement the City reserves the right to unilaterally sever, modify, or terminate this Agreement at any time if, in the opinion of its legal counsel, the Agreement may be deemed to violate the terms of such laws, or if mill levy funds generated are less than anticipated.

7.0 Indemnification.

To the fullest extent permitted by law, with respect to the performance of its obligations in this Contract or implied by law, and whether performed by Contractor or any permitted subcontractors hired by Contractor, the Contractor agrees to indemnify and hold harmless City, and its agents, servants, and employees from and against any and all claims, damages, and losses arising out of personal injury, death, or property damage, caused by the negligent or intentional acts, errors, or omissions of the Contractor or its subcontractors. Contractor shall also pay for City's reasonable attorneys' fees, expert fees, and costs incurred in the defense of such a claim.

8.0 Insurance.

- 8.1 The Contractor shall procure and maintain, at its sole expense, throughout the duration of this Agreement, insurance of such types (on an occurrence basis unless

otherwise agreed to) and in at least such amounts as required herein (and not less than as required in any bid documents or other contract documents), from an insurance company licensed to do business in the State of Kansas, the following insurance coverages as may be necessary to protect the Contractor and the City and agents of the City against all hazards or risks of loss as hereinafter specified:

- ☐ Workers' Compensation and Employer's Liability - Demonstrate compliance with K.S.A. 44-532(b) including maintenance of insurance providing the statutory limits under the Kansas Workers Compensation Act; the Contractor shall also be protected against claims for injury, disease, or death of employees, which, for any reason, may not fall within the provisions of a worker's compensation law. This policy shall include an "all states" endorsement.
- ☐ Commercial General Liability for bodily injury and property damage liability claims with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate; and
- ☐ Commercial Automobile Liability for bodily injury and property damage with limits of not less than \$1,000,000 each accident for all owned, non-owned and hired automobiles.
- ☐ Professional Liability - The Contractor shall maintain Professional Liability insurance in an amount not less than \$500,000, and shall provide the City with certification thereof.
- ☐ Additional Insurance - The Contractor shall be required to purchase an Owner's Protective Liability Insurance Policy, issued on an occurrence basis and covering bodily injury (and death) and property damage, naming the City as named insured. The liability limits shall be as stated in the Instructions to Bidders or in the Special Conditions. The original policy shall be placed on file with the City and maintained during the life of the Contract. Such policy shall contain no exclusion relative to any function performed by the City or its employees and agents in connection with the Work.
- ☐ Special Hazards - Additional insurance covering special hazards may be required on certain projects. Such additional insurance requirements shall be as specified in Instructions to Bidders or Special Conditions

8.2 The City shall be named additional insured on such policies. Satisfactory certificates of insurance shall be filed with the City prior to starting any work on this Contract. The certificates shall state that thirty (30) days written notice will be given to the City before any policy coverage thereby is changed or canceled.

8.3 Industry Ratings - The City will only accept coverage from an insurance carrier who offers proof that it:

- 1) Is licensed to do business in the State of Kansas;
- 2) Carries a Best's policyholder rating of A or better;

AND

- 3) Carries at least a Class X financial rating.

OR

Is a company mutually agreed upon by the City and Consultant.

8.4 All property damaged shall be repaired or replaced to a condition immediately prior to the time of damage, and to the satisfaction of the City.

8.5 All loss or damage arising out of the nature of the work to be done, or from the action of the elements, or from floods or overflows, or from ground water, or from unusual obstructions or difficulties, or any other natural or existing circumstances either known or unforeseen, which may be encountered in the prosecution of the said work shall be sustained and borne by the Contractor at its own cost and expense.

9.0 Conflict of Interest.

Contractor covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its Work hereunder, including under 31 U.S.C.S. Section 1352. Contractor further covenants that in the performance of this Agreement no person having any such interests shall be employed.

10.0 Nondiscrimination.

Contractor must comply with the Kansas Act Against Discrimination and if applicable, execute a Certificate of Nondiscrimination and Affirmative Action as provided in K.S.A. §44-1030. The Contractor further agrees that the Contractor shall abide by the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans with Disabilities Act (42 U.S.C. 1201 et seq.) as well as all other federal, state and local laws, ordinances and regulations applicable to this project and to furnish any certification required by any federal, state or local governmental agency in connection therewith.

11.0 Facilities and Equipment.

Contractor shall furnish at its own cost and expense all labor, tools, equipment, materials, transportation, and any other accessories, services and facilities required to complete the Project as designated, described in accordance with this Agreement, including any attached exhibits and any addendums to this Agreement.

12.0 Accessibility.

Contractor will comply with the Rehabilitation Act of 1973, as amended, Section 504, which prohibits discrimination against handicapped persons in employment services, participation and access to all programs receiving federal financial assistance. Contractor

shall also comply with applicable requirements with the Americans with Disabilities Act (ADA), as amended, which is a federal anti-discrimination statute designed to remove barriers which prevent qualified individuals with disabilities from enjoying equal treatment by state and local governments and their agencies in employment practices and accessibility in public services and programs.

13.0 Records, Ownership and Inspection.

13.1 Ownership of Documents.

All documents prepared by Contractor in the performance of this Agreement, although instruments of professional service, are and shall be the property of City, whether the project for which they are made is executed or not.

13.2 Open Records.

In recognition of the City's obligations under the Kansas Open Records Act ("KORA"), Contractor acknowledges that this Agreement along with any reports and/or records provided pursuant to this Agreement are public documents and are subject to disclosure under KORA.

13.3 Maintenance of Records.

Except as otherwise authorized by the City, Contractor shall retain such documentation for a period of three (3) years after receipt of final expenditure report under this contract, unless action, including but not limited to litigation or audit resolution proceedings, necessitate maintenance of records beyond this three (3) year period.

14.0 Independent Contractor.

It is the express intent of the parties that this Contract shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of the City and employees of the City shall not be deemed to be employees of the Contractor. The Contractor and the City shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the City's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining worker's compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employee's compensation.

15.0 Compliance with Laws.

15.1 The Contractor shall observe and comply with all applicable federal, state, and local laws, regulations, standards, ordinances or codes and shall be in compliance with all applicable licensure and permitting requirements at all times.

15.2 Pursuant to K.S.A. 16-113, if the Contractor does not have a resident agent in the State of Kansas, it shall execute and file "Certificate of Appointment of Process of Agent" with the Clerk of the District Court of Johnson County, Kansas. These forms may be obtained at the Office of the Clerk of the District Court. Contractor shall be responsible for the filing fee. This certificate is pursuant to the General Statutes of Kansas, and shall be filed prior to the formal execution of the Contract Documents.

Failure to comply with these requirements shall disqualify the Contractor for the awarding of the Contract.

16.0 Assignment.

Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented. The subcontracting, assignment, delegation or transfer of the Work shall in no way relieve the Contractor of its primary responsibility for the quality and performance of such Work.

17.0 Confidentiality.

All reports and documents prepared by Contractor in connection with the performance of this Agreement are confidential until released by City to the public. Contractor shall not make any such documents or information available to any individual or organization not employed by Contractor or City without the written consent of City before any such release.

18.0 Notices.

All notices hereunder shall be given in writing and sent as follows:

To City:

Matt Ponzer  
Electric Substation & Generation Manager  
1150 E. Santa Fe Street  
Gardner, KS 66030  
(913)856-0993  
mponzer@gardnerkansas.gov

To Contractor:

Chris Knox  
Keller Fire & Safety  
1138 Kansas Avenue  
Kansas City, KS 66105  
913-371-8494  
Chris.Knox@kellerfire.com

19.0 Amendments.

19.1 This document represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, and agreements, either written or oral.

19.2 This document may be amended only by written instrument, signed by both City and Contractor.

20.0 No Third Party Beneficiaries.

City and Contractor specifically agree that this Agreement is not intended to create any third party beneficiary relationship nor to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or

provisions of this Agreement; the duties, obligations and responsibilities of the parties to this Agreement with respect to third parties shall remain as imposed by law.

21.0 Force Majeure.

City shall not be responsible for any delay or failure of performance resulting from fire, flood, other acts of God, vandalism, strike, labor dispute of a third party, domestic or international unrest, delay in receipt of supplies, energy shortage or failure, or any other cause beyond its reasonable control.

22.0 Titles.

The titles in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.

23.0 Negotiations.

City and Contractor agree that disputes relative to the project should first be addressed by negotiations between the parties. If direct negotiations fail to resolve the dispute, the party initiating the claim that is the basis for the dispute shall be free to take such steps as it deems necessary to protect its interests; provided, however, that notwithstanding any such dispute Contractor shall proceed with the work as per this Agreement as if no dispute existed; and provided further that no dispute will be submitted to arbitration without both parties' express written consent.

24.0 Costs and Attorney Fees.

If on account of a continued default or breach by either party of such party's obligations under the terms of this agreement after any notice and opportunity to cure as may be required hereunder, it shall be necessary for the other party to employ one or more attorneys to enforce or defend any of such other party's rights or remedies hereunder, then, in such event, any reasonable amounts incurred by such other party, including but not limited to attorneys' fees, experts' fees and all costs, shall be paid by the breaching or defaulting party.

25.0 Severability.

If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

26.0 Authority to Enter into Agreement.

Contractor has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective party.

27.0 Incorporation of Appendices.

Appendix A - Scope of Work and Appendix B - Technical Specification are attached hereto and made a part hereof as if fully set out herein.



28.0 Entire Agreement.

This Agreement represents the entire agreement between the Parties hereto and any provision not contained herein shall not be binding upon either party, nor have any force or effect.

29.0 Governing Law and Venue.

This Agreement shall be governed by the laws of the State of Kansas and, in the event of litigation, the sole and exclusive venue shall be within the District Court of Johnson County, Kansas.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

CITY OF GARDNER, KANSAS

CONTRACTOR

*Keller Fire & Safety, Inc.*

\_\_\_\_\_  
Jim Pruetting, City Administrator

\_\_\_\_\_  
Authorized Agent (Insert Name, Title)

*[Signature]*  
*CRIG SETHANO President*

ATTEST:

\_\_\_\_\_  
Sharon Rose, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Ryan Denk, City Attorney

*as*

## COUNCIL ACTION FORM

## NEW BUSINESS ITEM No. 1

**MEETING DATE:** JANUARY 21, 2020

**STAFF CONTACT:** ALAN ABRAMOVITZ, HUMAN RESOURCES MANAGER  
MATT WOLFF, FINANCE DIRECTOR

---

**Agenda Item:** Consider authorizing the City Administrator to enter into an agreement with CBIZ Benefits & Insurance Services, Inc. for employee benefits consulting services

**Strategic Priority:** Fiscal Stewardship

**Department:** Administration – Human Resources  
Finance Department

---

**Staff Recommendation:**

Staff recommends authorizing the City Administrator to enter into a three-year agreement with CBIZ Benefits & Insurance Services, Inc. for employee benefits consulting services.

**Background/Description of Item:**

The City of Gardner currently utilizes MPR (Midwest Public Risk) to provide health, dental, and vision insurance plans for city employees. The actual cost for these items in 2019 was \$1,639,541.74.

For the 2019-2020 plan year, MPR increased plan prices for the City of Gardner at rates of 16.9% to 20.59% after a 1% discount on all three plans. This discount was given for utilization of under 75%. This increase is shown in the table below:

Plan	2019 – 2020 Increase
OAP 750	17.5%
INO 1 & 2	16.9%
CF 1500 (HDHP)	20.59%

Due to this large increase, staff began analyzing possibilities for better control of future costs. Several options were considered, including the possibility of an eventual change in the type of insurance utilized from fully insured, as the city currently is, to self-insurance or captive self-insurance.

In order to better evaluate these options, staff requested aggregate information on current insurance usage from MPR. MPR denied this request. Further, it was determined that under the current agreement with MPR, the city will be unable to obtain any usage information so long as MPR is utilized for insurance. Without this information, making a change to self-insurance or captive self-insurance would be ill advised due to the amount of unknown potential risk.

Additionally, the lack of utilization information makes it difficult for the city to obtain quotes from other options for full insurance outside of MPR, meaning the city is subjected to any rate increases issued by MPR with little option for recourse (such as a change in providers) as the lack of available data does not allow for educated decision making.

Given these difficulties and given that staff believes it is important to have choices moving forward in order to be able to best control long term costs, staff believes the best course of action at this juncture is to enlist the specialized services of a broker, which will provide guidance and several critical advantages through this process:

- Negotiation of health insurance premiums
- Assistance with receipt of claims and utilization data
- Utilization meetings to enable better decision making regarding both coverage and wellness program incentives
- Evaluation of short and long term goals related to the provision of health, dental, and vision insurance for city employees
- Creation of long term strategies for the continued provision of health, dental, and vision insurance for city employees
- Evaluation of alternative plan designs

While it is possible to search for alternative options for insurance without the use of a broker, the experience of a broker along with the additional specialized services a broker is able to offer provides the most efficient and cost-effective means of transitioning from reliance on MPR to long term planning for future insurance coverage and subsequent costs with the best interests of the city and its employees in mind.

Selection Process:

- Notification of the Request for Qualifications was posted on the city's website and published in the newspaper of record
- Eight Insurance Brokers were invited to submit proposals
- Three Brokers responded and were interviewed by a selection committee consisting of the following staff members: Alan Abramovitz, Human Resources Manager; Deborah Goodson, Payroll Clerk; Shruthi Nagaraju, Human Resources Partner; Amy Nasta, Senior Management Analyst; Matthew Wolff, Finance Director. Brian Johnston, Attorney with Jackson/Lewis was also present for the interviews.
- The selection committee unanimously selected CBIZ

The bid tabulation for the three respondents is included below for reference:

Respondent	Pricing
Bukaty	\$18/employee/month (appx. \$32,400/year)
<b>CBIZ</b>	<b>\$32,000/year</b>
Lockton	\$50,000/year (variable)

**Financial Impact:**

The attached three-year agreement is for \$32,000/year, with an optional renewal each year for two additional years at a cost of \$38,000/year.

It should be noted that the cost for broker services listed above is in addition to health, dental, and vision insurance premiums and associated expenses currently paid by the City of Gardner. As stated above, staff believes the use of specialized services provided by a broker to be an essential component of long term planning for future insurance coverage and subsequent costs with the best interests of the city and its employees in mind.

Additionally, the city will no longer receive the \$6,000 in annual credits returned to the city from premiums paid to MPR each year as a result of the city's robust wellness program.

**Attachments included:**

- Request for Qualifications
- CBIZ Services Agreement

**Suggested Motion:**

Authorize the City Administration to enter into a three-year agreement with CBIZ Benefits & Insurance Services, Inc. for employee benefits consulting services at a rate of \$32,000 per year.



**CITY OF GARDNER, KANSAS**  
**REQUEST FOR QUALIFICATIONS**  
**EMPLOYEE BENEFITS INSURANCE BROKER AND**  
**CONSULTING SERVICES**

(HR-2019-01)

Project Manager..... Alan Abramovitz

City of Gardner, Kansas-Human Resources

120 E. Main Street

Gardner, Kansas 66030

Phone: 913-856-0943

Fax: 913-856-0998

Email: [aabramovitz@gardnerkansas.gov](mailto:aabramovitz@gardnerkansas.gov)

Key Dates: The following outlines the planned schedule of major activities related to the RFQ distribution, response submission, evaluation and selection processes. The City of Gardner reserves the right to amend the schedule as necessary.

RFQ Issued: October 9, 2019

Request for Information/Written Questions: October 14, 2019

Response to Questions issued via email: October 21, 2019

Submit Proposals: October 28, 2019

Finalists in Person Presentations: October 29<sup>th</sup> to November 27<sup>th</sup>, 2019

Final Selection: December 6, 2019

## City of Gardner, Kansas

### Request for Qualifications (RFQ)

#### Employee Benefits Insurance Broker and Consulting Services

##### **PROJECT OVERVIEW**

The City requests proposals from qualified licensed brokers to provide consulting and insurance brokerage services for the City's current and future employee benefits, including group medical (includes prescription coverage), dental, and vision. The City seeks a consultant and broker that is well versed in the benefits market, experience in advising comparable public agencies and works well with various levels of staff and management. Submitted proposals must meet all requirements set forth in the Request for Qualifications (RFQ).

Benefitted employees and qualified dependents are eligible to receive some level of each of the aforementioned benefits. Plans have an annual renewal date of July 1<sup>st</sup>.

The City currently provides coverage through membership in Midwest Public Risk (MPR).

- A. Medical Insurance-The City currently offers medical insurance, including prescription coverage, through Cigna.
- B. Dental Insurance-The City currently offers dental insurance through Delta Dental.
- C. Vision Insurance-The City currently offers vision insurance through VSP.
- D. Employee Assistance Program-The City currently offers EAP services through New Directions.
- E. City of Gardner has 146 benefit eligible employees.
- F. Current Number of Enrolled Employees:  
Health Insurance 127; Dental Insurance 116; Vision Insurance 127

##### **SCOPE OF SERVICES**

The City is seeking to name a Broker of Record for the City's employee insurance benefits and is looking for continuity of services in the rapidly changing area of employee benefits. The City is particularly interested in a broker who can offer creative, innovative approaches, with a proven track record, that that allows the City to maintain quality programs and contain or reduce costs. The selected broker will perform a full range of benefit program services related to the acquisition, implementation, maintenance, communication and improvement of City's employee insurance benefits. The selected broker shall provide services, including, but not limited to, the following:

##### **A. Analysis and Reporting**

1. Analyze existing coverage and identify or develop cost-saving alternative benefit strategies and plans.
2. Assist in the development of long-range goals and strategies, including making projections of potential savings.

3. Provide analysis and recommendations based on utilization and performance reports, statistical and/or financial reports and plan specific data.
4. Assist the City in monitoring and analyzing experience trends and providing timely alerts on changing patterns and appropriate recommendations.
5. Provide, maintain and update comparison reports of other city, county entities and private companies' benefit plan offerings and costs to determine their competitiveness with the City's programs.
6. Provide financial and/or performance reviews of our insurance plans.
7. Be available to provide various types of reports as needed, such as cost analysis for benefit changes and other statistical, financial, forecasting, trend, or experience reports.
8. Prepare and present reports on trends, new products and audits as requested.
9. Maintain full and accurate records with respect to all matters and services provided on behalf of the City's benefits plans and programs.
10. Provide City staff or officials all spreadsheets, assumptions and calculations upon completion of any project performed on behalf of the City's benefit plans and programs.

**B. Liaison and Problem Intervention**

1. Act as liaison between the City and insurance providers.
2. Provide day-to-day consultation on plan interpretation and problem resolution.
3. Provide timely customer service and assistance to staff with issues involving provider billing, claims, vendor service issues/problems, advocacy for services, disputes, interpretation of contracts and services, changes and general troubleshooting.
4. Attendance as needed at meeting with City staff and/or employees to facilitate and assist in the management of City's employee benefit plans.
5. Act as an advocate in appeals between the City and the providers on unresolved issues if needed; provide advice when needed to enforce City, employee or their dependents' rights.



6. Assist the City in proactive mitigation of negative impacts or disruption of services to employees from benefit and/or provider network changes.

### **C. Compliance**

1. Assist with ongoing plan administration and ensure that programs are in compliance with State and Federal rules, regulations and laws.
2. Provide on-site training to City staff, as needed, regarding regulatory updates and/or Best Practice seminars for the effective administration of benefits plan.
3. Review and disseminate information to staff on new or revised State and Federal legislation that impacts benefits programs.
4. Assist City staff with annual audit to ensure compliance with all mandated Federal reporting and posting/notice requirements for benefit plans.
5. Develop and/or assist in developing communication materials and tools for conducting dependent verification audits.

### **D. Annual Renewal Process and Evaluation**

1. Review and make cost-saving recommendations regarding the modification of plan design, benefits levels, premiums, communications and quality of current employee and retiree benefit plans.
2. Annual estimates of renewal rates and cost trends and assist City staff in preparation of budget figures.
3. Conduct thorough and applicable market research in preparation for contract renewals.
4. Prepare specifications and compile data, obtain quotes and proposals, negotiate rates and analyze and compare proposals.
5. Review rate proposals to ensure underlying assumptions are appropriate and accurate to the City. Provide communication development and support for the annual open enrollment period, new benefit offerings and/or changes to the existing benefits offerings.
6. Recommend and help develop enhancement and improvement for benefit communication specific to the needs of the City's employees, including, but not

limited to brochures, pamphlets, matrices, comparison charts, summaries, electronic communications, forms, and employee benefit handbooks.

7. As requested, attendance at City Council Meetings to discuss and explain Health, Dental and Vision Insurance offerings.
8. Attendance at, and assistance with, coordination of Open Enrollment meetings and assist with employee enrollment in City's health, dental and vision insurance plans.

#### **Other Service Requirements**

1. Assist in the enhancement of the current employee wellness program to improve employee health and reduce employee healthcare costs.
2. Work collaboratively with City staff.
3. Manage plan transitions as necessary.
4. Develop and/or assist in developing and evaluating employee needs and satisfaction benefit surveys.

### **INSTRUCTIONS TO PROPOSERS**

#### **A. Examination of Proposal Documents**

By submitting a proposal, the proposer represents that it has thoroughly examined and become familiar with the work required under this RFQ and that it is capable of performing quality work to achieve the City's objectives.

#### **B. Addenda/Clarifications**

Questions or comments regarding this RFQ must be put in writing and must be received by the Project Manager **no later than 3:00 p.m. on October 14, 2019**. Correspondence shall be submitted by mail, email or fax to the Project Manager listed on the cover page of this RFQ. Responses from the City will be communicated by email to all recipients of this RFQ. Inquiries (letter, fax or email) received after the date and time stated above will neither be accepted nor receive a response. To the extent that a question causes a change to any part of this RFQ, an addendum shall be issued addressing such.

#### **C. Submission of Proposals**

All proposals shall be addressed and submitted to the Project Manager listed on the cover page of the RFQ. **Proposals must be delivered no later than**

**3:00 pm on October 28, 2019.** Any proposals received subsequent to the date and hour set herein because of delayed mail delivery or for any other reason will not be considered by the City. The RFQ is not an authorization to approach the insurance marketplace on the City's behalf. The City specifically requests that no contract, survey or solicitation of insurance markets be made on behalf of the City and that no insurance market reservation be made by or for any proposer with respect to insurance or related services to be provided by the City. Failure to comply with this request will be grounds for disqualification.

Submission must include six (6) physical copies and one (1) electronic version.

#### **D. Withdrawal of Proposals**

A proposer may withdraw its proposal at any time before the expiration of the time for submission of proposals as provided in this RFQ by delivering a written request for withdrawal signed by, or on behalf of, the proposer by mail, email or fax to the Project Manager listed on the cover page of this RFQ.

#### **E. Rights of the City**

This RFQ is not in any way to be construed as an agreement, obligation or other contract between the City and any person or firm submitting a proposal, nor does it obligate the City to pay for any costs incurred in preparation and submission of proposals or in anticipation of a contract. Proposals submitted in response to this request become the property of the City and are subject to the provisions of the Kansas Open Records Law after the announcement of award is made. The City may investigate the qualifications of any proposer under consideration, require confirmation of information furnished by the proposer and require additional evidence or qualifications to perform the services described in this RFQ.

Contract award will be made, at the sole discretion of the City, based on the evaluation of all responses, applying all criteria and oral interviews is determined to be the best qualified to perform the scope of services. The City's decision to select a Broker of Record is final. No right of review or appeal of the decision to appoint a Broker of Record will be considered.

The City reserves the right to:

1. Obtain clarification of any point in a proposer's response or to obtain additional information necessary to properly evaluate a particular response.
2. Reject any or all proposals.
3. Cancel the Request for Proposal in part or in its entirety without explanation to the proposers.
4. Issue subsequent Requests for Proposal.

5. Remedy technical errors in the Request for Proposal process.
6. Approve or disapprove the use of particular subcontractors.
7. Negotiate with any, all or none of the proposers.
8. Solicit best and final offers from all or some of the proposers.
9. Award a contract to one (1) or more proposers.
10. Accept other than the lowest offer.
11. Waive informalities and irregularities in proposals.

#### **F. Collusion**

By submitting a proposal, each proposer represents and warrants that its proposal is genuine and not a sham or collusive, or made in the interest of, or on behalf of, any person not named therein; that the proposer has not directly or indirectly induced or solicited any other person to submit a sham proposal or any other person to refrain from submitting a proposal; and that the proposer has not in any manner sought collusion to secure any improper advantage over any other person submitting a proposal.

### **PROPOSER'S MINIMUM QUALIFICATIONS**

#### **A. Qualifications of the Firm**

1. The proposer shall have at least five (5) consecutive years of experience in Kansas providing brokerage and benefits consulting services to municipalities. The firm shall have provided such services to jurisdictions whose service populations are similar in size and complexity to the City's.
2. The proposer must be legally authorized to do business in the State of Kansas and shall meet all licensing and other requirements imposed by State and Federal laws and regulations.
3. The proposer shall have experienced management staff, possessing comprehensive knowledge of benefit administration pertaining to public employers.
4. The proposer shall possess knowledge of applicable laws, regulations and codes and shall be familiar with local conditions and trends relating to group insurance in Kansas.

## **PROPOSAL FORMAT AND CONTENT**

### **A. Format**

Proposals shall be made in the official name of the firm or individual under which the vendor's businesses conducted (including the official business address). Proposals shall be prepared simply and economically, providing a straightforward, concise description of proposers' ability and expertise as an employee benefits insurance broker and consultant. Proposals shall be typed and be as brief as possible and not include any unnecessary promotional materials.

### **B. Content**

#### **1. General Information:**

Complete the attached General Information Form (Attachment A) and place the form in the front of all proposal submission. This form should be signed by a person duly authorized to bind the firm and proposed account team to submit a response to this RFQ solicitation. In addition, complete Consultant Questionnaire (Attachment C) and include with proposal submission.

#### **2. Profile of Firm:**

This section shall include the firm name, date established and the address of the office that would be assigned the City of Gardner account. Include a brief description of the firm's history, size, growth, philosophy and culture, number of employees and number of years in business under the same name, including specific experience with the public sector. Include a discussion on the firm's financial stability, capacity and resources.

#### **3. Services:**

Describe the following:

- a. A complete description of services to be provided. Include both services outlined in this written request, as well as additional recommended services, including a description of any and all unique brokerage or consulting services the firm will offer the City, please specify if these services are to be provided by the firm's staff or through an affiliate of the firm.
- b. A description of the group medical, dental, and vision premium volume handled by the firm and by the specific office to which the City's account would be assigned.

#### **4. Cost/Pricing Information:**

This section shall include the proposer's price for performing the services discussed in the scope of work. Include a comprehensive specific description indicating how the firm would price the City's account and the estimated annual cost of the services. Indicate whether pricing is based on an annual fee, fee for service, commission or a combination of two or more. Include any and all commissions and fees that the firm would expect to receive from the existing programs for services requested herein, as well as additional services that are being recommended. Identify any split commission or joint marketing arrangements with other agents, brokers, firms or associations. With this description, please include an explanation as to how the firm would provide the City with the best price at the time of negotiations. The City reserves the right to review and/or audit any records of the selected broker related to commissions, fees, etc. related to the City's account. Proposals in which the costs do not reflect a reasonable relationship to the work to be conducted may be viewed as failing to comprehend the requirements of the scope of work and, therefore, cause the proposal to be rejected as being nonresponsive.

### **EVALUATION AND SELECTION**

#### **A. Evaluation Criteria:**

In addition to the degree to which the proposer responds to the specifications of this Request for Qualification, the following criteria will be used to, but may not be limited to, evaluate proposals:

1. **Qualification of the Firm:** Weighted 30%  
Technical experience in performing work of a closely similar nature; experience working with cities or other public agencies; experience with creative cost containment methods; experience, reputation and ability to reach a wide array of insurance markets and provide innovative services; record of completing work on schedule; strength and stability of the firm; technical experience and strength and stability of proposed subcontractors; and assessment by client references.
2. **Staffing and Project Organization:** Weighted 20%  
Qualifications of project staff, particularly key personnel, especially the project manager; key personnel's level of involvement in performing related work; logic of project organization; evidence of the ability to provide service in a prompt, thorough, innovative and professional manner; and adequacy of labor commitment.
3. **Project Requirements:** Weighted 20%  
Demonstrated understanding of the project requirements and potential problem areas; project approach; work plan; and quality assurance program.

4. **Cost and Price:** Weighted 30%

Reasonableness of the total price and competitiveness of this amount with other offers received; adequacy of data in support of figures quoted; reasonableness of individual task budgets; and basis on which prices are quoted.

**B. Evaluation Procedure**

A review committee, generally made up of City staff, will review the proposals submitted and establish a list of finalists based on pre-established review criteria. The names of the review committee members will not be revealed prior to the interviews. The individual or composite rating and evaluation forms prepared by the committee members will not be revealed. As a part of the finalist evaluation, the City review committee may require proposers to make an oral presentation. The presentation shall serve to confirm proposal representations, provide supplemental information and provide the City the opportunity to meet and assess the proposed account team members.

Additionally, the City review committee may visit the firm's office to meet with key proposed staff members and tour the facility. The City reserves the right to select the firm which, in the City's opinion, will provide the most responsive and responsible services. The City is not bound to award the contract based solely on the lowest bid submitted. It is anticipated evaluations and interviews will be completed and the successful firm recommended to the City Council.



## ATTACHMENT A

### GENERAL INFORMATION FORM

(To be completed by the proposer and placed at the front of your proposal)

\_\_\_\_\_  
Legal Name of Firm Firm's Telephone Number

\_\_\_\_\_  
Street Address Firm's Fax Number

\_\_\_\_\_  
City/State/Zip Firm's Web Site Address

\_\_\_\_\_  
Type of Organization (Corporation, Sole Proprietorship, Partnership, etc.)

\_\_\_\_\_  
Business License (documented) Taxpayer ID Number (Federal)

\_\_\_\_\_  
Name and Title of Project Manager

\_\_\_\_\_  
Name, Title and Phone Number of Person Project Correspondence Should be directed to:

\_\_\_\_\_  
E-mail Address

\_\_\_\_\_  
Listing of Major Subcontractors Proposed and Areas of Responsibility/Phone Number

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature/Date

\_\_\_\_\_  
Name and Title of Person Signing Completion of General Information Form

## **ATTACHMENT B**

### **CLIENT REFERENCES**

Instructions: Provide at least three current and two past Kansas clients. At least two of these clients should be cities or public entities. Copy this form as appropriate.

Name of Client: \_\_\_\_\_

Client Address: \_\_\_\_\_

Client Contact Name(s) and Title(s) \_\_\_\_\_

Client Contact Phone Number(s) \_\_\_\_\_

Client email: \_\_\_\_\_

Brief description of work performed for this client (use additional sheets if necessary):

## ATTACHMENT C

### CONSULTANT QUESTIONNAIRE

Please submit answers to ALL questions.

1. Has your firm established any limitations on the number of clients you intend to accept? What is your client to consultant ratio?
2. What is your firm's policy/standard for returning Phone calls? Emails or written questions?
3. Provide two examples of when you have provided services that have gone beyond the "spirit of the contract" (pro bono work)
4. If you are the successful new consultant, outline your transition plan with dates, tasks and responsible parties.
5. How many days of advance notice would your company require in order to attend meetings?
6. Provide an example that demonstrate your firm's ability to be proactive in finding opportunities to enhance benefits and services.
7. Provide examples that demonstrate your firm's negotiation skills to bring down costs.
8. What service does your firm provide for developing Open Enrollment and New Employee Orientation materials? Please provide a separate cost for each program (open enrollment and new employee orientations) if there are additional costs.
9. What service does your firm provide for enhancing a Wellness Program? Please provide any cost for this service.
10. Are there any other relevant consulting services that are not listed that you will provide as part of your consulting services to the City? Please provide the cost for these services.



## SERVICES AGREEMENT

This Agreement made by and between City of Gardner, Kansas ("Employer") who sponsors a group employee benefits plan ("Plan") and CBIZ Benefits & Insurance Services, Inc. ("CBIZ"), who will provide for Employer one or more of the services more fully described herein and as indicated below.

WHEREAS, in accordance with the terms set forth below, CBIZ will perform the services described herein in accordance with the provisions of the Internal Revenue Code, as amended ("IRC") and the Public Health Services Act, as amended ("PHS"), without assuming any responsibility as a plan administrator or plan sponsor under the Plan, and without assuming any responsibility for continuation or extension of coverage laws unless specifically agreed to elsewhere in this Agreement.

CBIZ will perform the following services effective January 1, 2020:

Employee Benefits Consulting Services (Addendum A)

The Terms of Agreement and all applicable Addendums are attached hereto. Employer and CBIZ have read the Terms of Agreement and all attached Addendums and agree to be bound by their terms.

### Employer

City of Gardner, Kansas

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

### CBIZ Benefits & Insurance Services, Inc.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## TERMS OF AGREEMENT

1. Services Provided by CBIZ. CBIZ will perform one or more of the services selected by Employer and pursuant to the services outlined on Addendum A, attached hereto and made a part hereof. The specific services to be performed for Employer shall be determined by CBIZ and Employer and may be modified from time to time as agreed upon between the parties.
2. Relationship of the Parties. It is understood and agreed that this Agreement does not create any employer/employee, partner or joint venturer relationship between the parties. The parties agree that the relationship between CBIZ and Employer shall be that of independent contractors. As an independent contractor, CBIZ shall have the right to determine the means and methods to be used in accomplishing and providing the services to be rendered hereunder, including but not limited to outsourcing one or more services contemplated herein. Each party shall be responsible for all expenses involved in the execution of any services to be performed by them hereunder and shall also be responsible for all federal, state and local taxes that may be required to be paid by either party. The parties shall not have any express or implied rights or authority to assume or create any obligation or responsibility on behalf of or in the name of the other, except as may otherwise be set forth in this Agreement.
3. Requests of Information. Employer acknowledges the importance of providing complete and accurate information to CBIZ prior to the effective date of any and all services provided hereunder. CBIZ, from time to time, will request certain information from Employer, which is necessary to enable CBIZ to adequately perform its duties hereunder. Employer shall, within fifteen (15) days of the mailing or hand delivery of such request, furnish CBIZ with all information requested. CBIZ, its officers, employees and agents shall not be liable for any damages, taxes, interest, penalties, or fines incurred by Employer if all the requested information is not furnished within the time period set forth in this paragraph.
4. Reliance on Employer Provided Information. All information supplied to CBIZ by Employer shall be provided in writing or in such electronic media as is acceptable to the parties and such information shall be true and correct to the best of Employer's belief and knowledge. CBIZ may rely on any such information furnished by authorized individual(s) of Employer and shall have no responsibility to inquire into its correctness or accuracy. CBIZ shall incur no liability for reliance on such information in the performance of its services. If the information supplied proves to be incorrect, Employer will, if applicable, pay CBIZ based upon then current hourly rates for the costs of all work to correct such information. Employer shall use reasonable efforts to retain duplicate copies of information or material sent to CBIZ and for taking other precautions as it deems necessary in case such information or materials are lost or destroyed, regardless of cause, or in case information reprocessing is needed for any reason.
5. Plan Administration and Fiduciary Responsibilities. Employer is the Plan's fiduciary, whether named or otherwise, and plan administrator, not CBIZ. Nothing contained in this Agreement shall be deemed to make CBIZ a fiduciary to the Plan. Employer is solely responsible for all administrative duties incident to the maintenance of the aforementioned Plan, including general compliance with the IRC, PHS, Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99-272 ("COBRA") or any other federal, state or local laws or regulations that may have bearing on this Plan.

CBIZ, its officers, employees and agents are not Plan fiduciaries and shall not perform any functions which might, in the opinion of CBIZ, result in the classification of CBIZ, or any of its officers, employees or agents as a "fiduciary". Employer acknowledges that CBIZ has no discretionary authority, control or responsibility over the Plan or over the administration of Plan assets. CBIZ will execute requested transactions involving the Plan only after receiving the appropriate authority from Employer, named representative(s) or other properly identified fiduciary (ies).

CBIZ, its officers, employees and agents will not furnish any legal, tax, or accounting advice for which its officers, employees or agents are not licensed to furnish, but will direct such questions either directly to, or through Employer. Employer bears responsibility to direct such questions to its legal counsel and accountant.

From time to time in the course of providing the services hereunder, CBIZ has and will continue to provide Employer with independent industry data and information for Employer and its management to materially utilize in making decisions related to Employer's group health insurance and related coverages. Employer will be responsible for management decisions and functions, and for designating an individual who possesses suitable skill, knowledge, and/or experience, preferably within senior management, to oversee any services CBIZ may provide. Employer is

responsible for evaluating the adequacy and results of the services performed and accepting responsibility for the results of such services; provided, however, the aforesaid shall in no way waive, release, obviate or mitigate the obligations, covenants, responsibilities and liabilities of CBIZ under this Agreement.

6. Limitation of Liability. CBIZ's services under this Agreement shall be limited to the services outlined on the Addendums attached hereto. Neither CBIZ, nor its officers, employees and agents shall have any liability whatsoever for the payment of any damages, interest, taxes, fines or penalties which arise out of or are in connection with any acts or omissions of a Plan trustee, sponsor, fiduciary, administrator or party-in-interest to the Plan.  
  
CBIZ's liability regarding processing and recordkeeping errors shall be limited only to substantiated and proven direct damages and the correction of such errors that are reported to CBIZ within thirty (30) days of receipt of said erroneous reports, records or information by Employer. CBIZ shall not be liable for losses incurred by the Plan or a Plan participant for indirect, punitive, special or consequential damages arising out of any breach of this Agreement.
7. Prior Acts or Omissions. CBIZ shall not be liable for any acts or omissions with respect to the services provided hereunder, which were committed before the date of this Agreement by another third party provider. CBIZ shall also not be liable for any acts or omissions with respect to the services provided hereunder for the Plan which occur after this Agreement's termination, except for acts or omissions in connection with the transfer of records upon termination of this Agreement as provided in Section 14 of this Agreement.
8. Indemnification. Subject to the limitations stated in Section 6 above or any limitations or restrictions imposed by law and notwithstanding any other provision to the contrary, each party to this Agreement (the "Indemnifying Party") agrees to indemnify and hold harmless the other party (the "Indemnified Party") and its officers, directors, employees, agents and affiliates from and against any and all loss, liabilities, demands, claims, actions and expenses (including, without limitation, any attorneys' fees and taxes) arising out of, or in connection with, any breach of the Indemnifying Party's responsibilities under this Agreement which are found to constitute gross negligence or willful misconduct. The provisions of this Section shall survive termination of this Agreement for a period not to exceed three (3) years from the date of termination of this Agreement, and shall be binding on the parties' successors and assigns.
9. Fees. The fees for CBIZ's services performed hereunder shall be outlined on Addendum B, attached hereto and made a part hereof.
10. Confidentiality. Each party agrees not to disclose or use during or subsequent to termination of this Agreement, any confidential information relating to the other party's business unless such use is required in the performance of this Agreement. The parties agree and understand that confidential information is any information that is treated as confidential by either party and/or has not been made generally available to the public. Such information shall include, but not be limited to, employee information, client and customer lists, data, records, computer programs, manuals, reports, processes and methods that each party may have become privileged to during the course of this Agreement. The parties acknowledge that Employer may disclose confidential and important Protected Health Information ("PHI") to CBIZ as defined under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). Execution of this Agreement indicates each party's acceptance to the terms of Addendum C, Business Associate Agreement, attached hereto and made a part hereof. All records and other materials related in any way to each party's business shall be and remain the respective party's property during and after the termination of this Agreement. Upon termination of the Agreement, each party shall promptly return to the other party all copies of materials involving confidential information in the other party's possession or control. The parties recognize the difficulties and related expense associated with segregating and destroying certain electronic records. The receiving party may retain electronic copies of confidential information for archival and emergency backup purposes and such retained confidential information shall remain subject to the terms of this Agreement. The parties further agree and acknowledge that they will disclose the confidential information only to those directors, officers or employees that have an absolute need to know for the purposes of the Agreement. A copy of CBIZ's privacy practices regarding Employer's nonpublic personal information is available upon request. The provisions of this Section 10 shall survive the termination of this Agreement.
11. Authorization to Disclose Employer Information. Employer authorizes CBIZ to share Employer information with other CBIZ affiliated companies for the limited purpose of providing other services for Employer by a CBIZ affiliated company. Employer further authorizes CBIZ to provide Employer information to approved third party vendors who are providing services for Employer; however CBIZ will not disseminate any information to any third party unrelated

to CBIZ without Employer's written authorization. Employer agrees to indemnify and hold harmless CBIZ, its officers, directors, employees and agents against any loss, liabilities, demands, claims, actions and expenses arising out of or in connection with CBIZ providing information to any third party as authorized by Employer and provided for in this Section.

12. Ownership of CBIZ Intellectual Property. CBIZ shall retain all rights, title to and interest in any and all intellectual property developed in connection with the provision of services and relationship contemplated by this Agreement. For purposes of this Agreement, intellectual property shall include, but not be limited to, computer software, source code and written processes and procedures.
13. Notice. Any notice required or permitted to be given under this Agreement shall be sufficient if in writing and sent by registered mail, postage prepaid, addressed as follows:

CBIZ: CBIZ Benefits & Insurance Services, Inc.  
700 West 47<sup>th</sup> Street, Suite 1100  
Kansas City, Missouri 64112  
Attn: General Counsel

Employer: City of Gardner, Kansas  
120 E. Main Street  
Gardner, Kansas 66030

If any party gives written notice of a change in address, notice to that party shall thereafter be given at the new address set forth in the notice.

14. Term and Termination. This agreement is effective January 1, 2020, and will remain in effect for a one (1) year period from and after the effective date stated (the "Initial Term"). Thereafter, this Agreement may be renewed by Employer for up to four (4) additional twelve (12) month terms, (each a "Renewal Term"), unless terminated earlier by CBIZ or Employer with written notice ninety (90) days prior to the end of the Initial Term or any Renewal Term. Notwithstanding anything stated herein to the contrary, either party may terminate this Agreement at any time upon an event of breach or default by the other party of any material term of this Agreement. Each party shall be given prompt notice of such breach or default by the other party and shall have thirty (30) days from the date of receipt of such notice to remedy and cure such default or breach. If, after such thirty (30) day period, the default or breach has not been remedied or cured, the Agreement will terminate. Upon termination, CBIZ shall have a reasonable amount of time to transfer account records information in accordance with the written instructions of Employer. If Employer terminates the Agreement without cause prior to the end of any term, CBIZ shall be entitled to receive all of the revenue due through the end of the current term of the Agreement plus reasonable costs related to termination, including without limitation costs of generating termination related reports and accounting. CBIZ shall have no responsibility to release any records, plan data, electronic files or other information to Employer until CBIZ has received payment in full for any compensation due and owing to CBIZ pursuant to this Section and Section 9 above for services performed prior to termination of this Agreement.
15. Amendment. The terms and provisions of this Agreement and the attached Addendums may be modified or amended only by written agreement executed by the parties hereto.
16. Waiver. No waiver of any breach of this Agreement shall constitute a waiver of any other breach, whether of the same or any other terms of this Agreement, nor shall any delay or omission of either party's exercise of any right, arising from any default affect or impair the party's rights as to the same or future default.
17. Severability. In case any provision of this Agreement is invalid or unenforceable, the validity and enforceability of the Agreement's remaining provisions shall not in any way be affected or impaired.
18. Successor and Assigns. This Agreement and all Addendums shall inure to the benefit of and be binding upon the parties hereto, their successors and assigns. However, this Agreement shall not be assigned to any other party without the other party's written consent, which will not be unreasonably withheld. Notwithstanding the foregoing, CBIZ may assign this Agreement to a parent, subsidiary or affiliate, or to an entity acquiring substantially all of the assets of CBIZ without Employer's consent.



19. Governing Law. This Agreement shall be governed by and construed under the laws of the State of Kansas, without regards to principles of conflicts of laws. Both parties to this Agreement hereby irrevocably submit to the jurisdiction of the courts of the state of Kansas (state or federal) over any dispute arising out of this Agreement and agree that all claims in respect of such dispute shall be determined in such court.
20. Entire Agreement. This Agreement and all attached Addendum(s), as well as the Employer's RFP Specifications and CBIZ's binding proposal in response, to the extent not inconsistent and not imposing lessor conditions than this Agreement, contain the entire understanding between the parties with respect to the subject matter herein and supersedes any prior or contemporaneous written or oral agreement between them related to the subject matter hereof. There are no representations, agreements, arrangements or understandings, oral or written, between the parties relating to the subject matter of this Agreement, which are not fully expressed herein.
21. Headings. The headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions. All pronouns used in this Agreement shall be deemed to refer to the masculine, feminine or neuter gender as the context requires.
22. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[Remainder of page intentionally blank]

**ADDENDUM A**  
**EMPLOYEE BENEFITS CONSULTING**  
**SCOPE OF SERVICES**

**Group Health & Welfare**

**Plan Review**

- New Case Review
- Claims Review
- Financial Review
- Utilization Review Meeting
- Quarterly Claims Review Meeting
- Model Pricing Impact of Plan Design Alternatives
- Strategy/Planning Meeting with Employer to include
  - CBIZ Wellbeing Solutions Readiness
  - CBIZ Updates and Capabilities Review
- Planning and understanding of Employer's goals and long term strategy
- Development and approval of timeline
- Stop-loss Contract Review
- Strategy Document
- Compliance Checklist Review

**Benefit Solutions**

- Renewal meeting(s)
- Negotiate renewal rates
- Evaluate alternate plan design options
- Draft bid specification, evaluation criteria and analyze bid responses
- Evaluate alternate funding options

**Implementation**

- Implementation meeting with organization
- Complete all documents and contracts
- Construct Enrollment Timeline
- Finalize information to be included in employee enrollment meetings

**Communications**

- Design announcement letters and benefit outline summaries
- Design a custom benefit booklet that meets Employer's compliance and fiduciary responsibilities (Standard Template; Custom Option)
- Conduct on-site open enrollment meetings
- Create benefit presentation video link for intranet that can be viewed by employees at any time
- Provide carrier, state and federal benefit updates

**Employee Engagement & Communication**

- Review client strategic objectives
- Identification of communication objectives & challenges
- Enrollment resource analysis
- Strategic insurance company relationships

**Employee Health Risk Management****Wellbeing Solutions**

- Wellbeing Insights Newsletter
- Wellbeing and engagement strategy, calendar, and budget development
- Evidence-based tactics to reduce health and wellbeing risks
- RFP and oversight of vendor processes
- Return on Investment and Value of Investment analysis

**Regulatory Affairs & Compliance**

- In-house Regulatory Affairs Attorney & Staff
- Assist with federal and state requirements (COBRA, FMLA, etc.)
- Provide proactive updates on pending legislative issues
- Provide "For Your Benefit Booklet" for HR department
- Compliance Checklist to be reviewed by CBIZ Account Managers and Employer's HR Department
- Regulatory Updates - "Benefit Beat"
- Time Sensitive Communication - "At Issue"
- Health Care Reform Regulatory Updates

**Actuarial Services**

- IBNR Calculations (Self-Funded Plans)
- Premium Equivalents
- Funding Development/Projection
- Employee Contribution Strategies & Calculations
- Benchmarking & Claims Analysis – NavMd

**Pharmacy Benefit Consulting (May be Subject to additional fees)**

- Carrier or PBM pharmacy contract review
- PBM (procurement)
- Plan design and benefit management
- Implementation oversight
- Market check (as allowed in current contract)
- Annual pharmacy experience review and clinical recommendations
- Vendor management

## **Benefits Administration**

### **Account Services**

- Assist employees with claims questions and problems
- Assist with billing, enrollment issues, ID cards, etc.
- Develop and coordinate enrollment materials for new employees
- Prepare and conduct educational benefit seminars/health fairs
- Provide proactive benefit updates

### **Other Services**

- CBIZ HRSolutions - a comprehensive online HR portal, including a live hotline for quick access to Human Resources professionals and attorneys (who are not practicing law or providing legal advice), providing access to resources, information and answers related to a wide array of human resources topics. Employer will have access up to four (4) hours per month of HR assistance, via phone or email.

## **ADDENDUM B FEE FOR SERVICES**

Employer agrees to pay CBIZ an annual fee in the amount of Thirty-Two Thousand Dollars for each year of the Initial Term, said fee to be paid in equal quarterly payments of Eight Thousand Dollars (\$8,000.00) each due on or before the first day of each calendar quarter (January 1, April 1, July 1, October 1). The annual fee for each Renewal Term, if any, will be Thirty-Eight Thousand Dollars (\$38,000.00) to be paid in equal quarterly payments of Nine Thousand Five Hundred Dollars (\$9,500.00) each on or before the first day of each calendar quarter.

Employer agrees to name CBIZ as the broker of record for the lines of coverage in its employee benefits program. The parties acknowledge and agree that in addition to the fee outlined above, CBIZ will receive commissions, fees and other revenue from the lines of coverage in Employer's employee benefit program except the medical line of coverage. In the event Employer terminates the Agreement prior to the end of any term of the Agreement without cause and CBIZ is no longer the broker of record for Employer, Employer will be responsible for all fees and commissions CBIZ would have received as the broker of record through the end of the current term.

CBIZ has been and will continue to be committed to acting in our client's best interest by providing services and products that meet our clients' needs as communicated to CBIZ. From time to time, CBIZ may participate in agreements with one or more insurance companies or third party vendors, in connection with the insurance related transactions, to receive additional compensation or consideration. These compensation arrangements are provided to CBIZ as a result of the performance and expertise by which products and services are provided to the client and may result in enhancing CBIZ's ability to access certain markets and services on behalf of CBIZ clients. More information regarding these agreements and the consideration received pursuant to these agreements is available upon written request.



## ADDENDUM C

### BUSINESS ASSOCIATE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT ("BAA") is made by and between City of Gardner Health Plan ("Covered Entity") and CBIZ Benefits & Insurance Services, Inc. ("Business Associate").

#### RECITALS:

- A. Business Associate provides certain services to Covered Entity, and such business relationship may be governed by one or more separate agreements. Such agreement or agreements are collectively referred to herein as the "Agreement."
- B. To carry out its obligations under the Agreement, Business Associate may create or receive from or on behalf of Covered Entity Individually Identifiable Health Information, as such term is defined in 45 C.F.R. Parts 160 and 164, Subparts A and E (the "Privacy Rule").
- C. The Privacy Rule and 45 C.F.R. Parts 160 and 164, Subparts A and C (the "Security Rule") obligate Covered Entity to enter into a contract with Business Associate to ensure that Business Associate appropriately safeguards such information.
- D. Covered Entity and Business Associate desire to make this BAA in order to enable Covered Entity to satisfy its obligations under the Privacy Rule and Security Rule.

**NOW, THEREFORE**, for and in consideration of the mutual promises herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

#### I.

#### DEFINITIONS

- 1.1 "Breach" shall have the same meaning as the term "breach" in 42 U.S.C. § 17932 and 45 C.F.R. Part 164, Subpart D (the "Breach Notification Rule").
- 1.2 "Data Aggregation" shall have the same meaning as the term "data aggregation" in the Privacy Rule.
- 1.3 "Designated Record Set" shall have the same meaning as the term "designated record set" in the Privacy Rule.
- 1.4 "Discovery" shall have the same meaning as the term "discovery" in 45 C.F.R. § 164.410(a)(2).
- 1.5 "Electronic Protected Health Information" shall have the same meaning as the term "electronic protected health information" in the Security Rule.
- 1.6 "HIPAA" shall mean the Health Insurance Portability and Accountability Act of 1996 and regulations promulgated pursuant thereto.
- 1.7 "HITECH Act" shall mean the Health Information Technology for Economic and Clinical Health Act and regulations promulgated pursuant thereto.
- 1.8 "Individual" shall have the same meaning as the term "individual" in the Privacy Rule and shall include a person who qualifies as a personal representative in accordance with the Privacy Rule.
- 1.9 "Protected Health Information" shall have the same meaning as the term "protected health information" in the Privacy Rule, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- 1.10 "Required by Law" shall have the same meaning as the term "required by law" in the Privacy Rule.
- 1.11 "Secretary" shall mean the Secretary of the United States Department of Health and Human Services ("HHS").
- 1.12 "Security Incident" shall have the same meaning as the term "security incident" in the Security Rule.
- 1.13 "Transaction" shall have the same meaning as the term "transaction" in 45 C.F.R. Parts 160 and 162 (the "Transactions Rule").



1.14 “Unsecured Protected Health Information” shall have the same meaning as the term “unsecured protected health information” in the Breach Notification Rule.

## II.

### OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

2.1 Confidentiality. Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by this BAA or as Required by Law.

2.2 Safeguards. Business Associate agrees to use appropriate safeguards and comply, where applicable, with the Security Rule with respect to Electronic Protected Health Information, to prevent the use or disclosure of the Protected Health Information other than as provided for by this BAA.

2.3 Mitigation. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this BAA.

2.4 Reporting. Business Associate agrees to promptly, and in all cases not more than twenty (20) days, report to Covered Entity any use or disclosure of Protected Health Information not provided for by this BAA of which it becomes aware, including any Breach of Unsecured Protected Health Information as required by 45 C.F.R. § 164.410 and/or any potential Security Incident.

2.5 Agents and Subcontractors. Business Associate agrees to ensure, in accordance with 45 C.F.R. § 164.502(e)(1)(ii), that any agents, including without limitation subcontractors, that create, receive, maintain or transmit Protected Health Information on behalf of Business Associate agree to restrictions, requirements and conditions substantially similar to those that apply to Business Associate with respect to such information.

2.6 Access and Amendment. Business Associate agrees to provide access, at the request of Covered Entity, and in the time and manner reasonably designated by Covered Entity, to Protected Health Information in a Designated Record Set to Covered Entity in order to meet the requirements under 45 C.F.R. § 164.524. Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of Covered Entity, and in the time and manner reasonably designated by Covered Entity. In the event an Individual requests such access or amendment directly from Business Associate, Business Associate shall, in its sole discretion, either provide the requested access or make the requested amendment or promptly forward such request to Covered Entity. Any denials of requests by Individuals for access or amendment shall be the responsibility of Covered Entity.

2.7 Performing Obligations of Covered Entity. To the extent that Business Associate is to carry out any obligation of Covered Entity under the Privacy Rule, Business Associate agrees to comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of such obligation.

2.8 Books and Records. Business Associate agrees to make its internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information available to the Secretary, in a time and manner designated by the Secretary, for purposes of the Secretary determining Covered Entity’s and/or Business Associate’s compliance with the Privacy Rule. If the Secretary requests such access, Business Associate shall promptly notify Covered Entity and shall consult and cooperate with Covered Entity concerning the proper response to such request. Notwithstanding the foregoing, nothing in this Section shall be deemed to require Business Associate to waive the attorney-client, accountant-client, or other legal privilege, and nothing in this Section shall impose upon Covered Entity any obligation to review Business Associate’s practices, books or records.

2.9 Accounting. Business Associate agrees to document its disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528. Business Associate agrees to provide to Covered Entity, in a time and manner reasonably designated by Covered Entity, information collected in accordance with this Section to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528. In the event an Individual requests an accounting of disclosures of Protected Health Information directly from Business Associate, Business Associate shall promptly forward such request to Covered Entity. It shall be Covered Entity’s responsibility to prepare and deliver, or cause to be prepared and delivered, any such accounting requested.



2.10 Uses and Disclosures Required By Law. Except to the extent prohibited by law, Business Associate shall immediately notify Covered Entity if it receives a request for disclosure of Protected Health Information which Business Associate believes is Required by Law. Business Associate shall provide Covered Entity with a copy of such request and shall consult and cooperate with Covered Entity concerning the proper response to such request.

2.11 Electronic Protected Health Information. With regard to Protected Health Information which is Electronic Protected Health Information (as defined in the Security Rule), Business Associate shall: (i) comply with the applicable requirements of the Security Rule, including implementing administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of such information; (ii) in accordance with 45 C.F.R. § 164.308(b)(2), ensure that any subcontractors that create, receive, maintain or transmit Electronic Protected Health Information on behalf of Business Associate agree to comply with the applicable requirement of the Security Rule by entering into a contract or other arrangement that complies with 45 C.F.R. § 164.314; and (iii) report to Covered Entity any Security Incident of which Business Associate becomes aware, including any Breach of Unsecured Protected Health Information as required by 45 C.F.R. § 164.410. Business Associate's obligations under this Section are in addition to its other obligations set forth in Section 2 of this BAA.

2.12 Standard Transactions. To the extent that, under the Agreement, Business Associate conducts on behalf of Covered Entity all or part of a Transaction, Business Associate shall comply with, and shall cause any of its agents or subcontractors to comply with, the Transactions Rule.

2.13 HITECH Act. Business Associate and Covered Entity agree that to the extent not incorporated or referenced in this BAA, other requirements under the HITECH Act (as well as any other requirements under HIPAA) that apply to business associates and that are required to be incorporated by reference in a business associate agreement are incorporated into this BAA as if set forth in this BAA in their entirety and are effective as of the applicable date for each such requirement on which HHS will require business associates to comply with such requirement. Business Associate shall comply with the obligations of a business associate as prescribed by HIPAA and the HITECH Act commencing on such applicable date of each such requirement.

### III.

#### PERMITTED USES AND DISCLOSURES OF

#### PROTECTED HEALTH INFORMATION BY BUSINESS ASSOCIATE

3.1 Use or Disclosure to Provide Services Under the Agreement. Except as otherwise limited in this BAA, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.

3.2 Use or Disclosure for Business Associate's Management and Administration. Except as otherwise limited in this BAA, Business Associate may use Protected Health Information for its proper management and administration or to carry out its legal responsibilities. Except as otherwise limited in this BAA, Business Associate may disclose Protected Health Information for its proper management and administration, provided that such disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

3.3 Use or Disclosure to Provide Data Aggregation Services. Except as otherwise limited in this BAA, Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

3.4 De-Identification of Protected Health Information. Business Associate may de-identify any and all Protected Health Information provided that de-identification conforms to the requirements of the Privacy Rule. The parties acknowledge and agree such de-identified data is not subject to the terms of this BAA.

3.5 Violations of Law. Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 C.F.R. § 164.502(j)(1). To the extent permitted by law, Business Associate shall promptly notify Covered Entity in the event that Business Associate makes such a report.

3.6 Minimum Necessary Uses, Disclosures and Requests. Subject to the exceptions described in 45 C.F.R. §164.502(b)(2), Business Associate must make reasonable efforts to limit Protected Health Information to the minimum necessary to accomplish the intended purpose of a use, disclosure or request otherwise permitted by this BAA, as required by the Privacy Rule.

#### IV. RESPONSIBILITIES OF COVERED ENTITY

4.1 Notice of Privacy Practices. Covered Entity shall notify Business Associate of any limitation(s) in the notice of privacy practices of Covered Entity in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information. Covered Entity represents and warrants that its notice of privacy practices complies with applicable requirements of the Privacy Rule and/or Security Rule.

4.2 Change or Revocation of Permission. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.

4.3 Restrictions on Use or Disclosure. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

4.4 Permissible Requests. Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under this BAA.

#### V. TERM AND TERMINATION

5.1 Term. The term of this BAA shall be effective as of the date first written above and shall expire when all of the Protected Health Information received from Covered Entity, or created, maintained or received by Business Associate on behalf of Covered Entity, that Business Associate still maintains in any form is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in Section 5.3 of this BAA.

5.2 Termination. Upon Covered Entity's knowledge of a material breach of this BAA by Business Associate, Covered Entity may undertake any of the following: (i) provide an opportunity for Business Associate to cure the breach subject to the right of Covered Entity to terminate, without penalty, this BAA and the Agreement if Business Associate does not cure the breach or end the violation within thirty (30) days of receiving notice of such breach or violation from Covered Entity; or (ii) if Covered Entity reasonably determines that neither termination nor cure are feasible, Covered Entity may report the violation to the Secretary.

5.3 Return or Destruction of Protected Health Information Upon Termination.

(a) Except as provided in (b) below, upon termination for any reason of this BAA, Business Associate shall return or destroy all Protected Health Information, including such information in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

(b) In the event Business Associate determines that returning or destroying such Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Business Associate shall then extend the protections of this BAA to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

(c) For purposes of this Section 5.3, "infeasible" includes but is not limited to circumstances in which further use or disclosure of Protected Health Information is or may be Required by Law or otherwise necessary for Business Associate's proper management and administration.

#### VI. MODIFICATIONS TO COMPLY WITH STANDARDS

In the event that additional standards are promulgated under HIPAA or any existing standards are amended, including without limitation the Privacy Rule, the Security Rule, and/or the HITECH Act, the parties agree to enter into a mutually acceptable amendment to this BAA to enable the parties to satisfy their obligations under such additional or amended standard(s).

VII.  
MISCELLANEOUS

7.1 Regulatory References. A reference in this BAA to a section in the Privacy Rule, the Security Rule or any other standard promulgated under HIPAA or the HITECH Act means the section as in effect or as amended.

7.2 Survival. Any provision of this BAA which by its terms imposes an obligation after termination of this BAA shall survive the termination of this BAA and shall continue to be binding on the parties.

7.3 Injunctive Relief. Business Associate understands and acknowledges that any use or disclosure of Protected Health Information in violation of this BAA will cause Covered Entity irreparable harm, the amount of which may be difficult to ascertain, and therefore agrees that Covered Entity shall have the right to apply to a court of competent jurisdiction for specific performance and/or an order restraining and enjoining any such further use or disclosure and for such other relief as Covered Entity shall deem appropriate. Such right of Covered Entity is to be in addition to the remedies otherwise available to Covered Entity at law or in equity. Business Associate expressly waives the defense that a remedy in damages will be adequate and further waives any requirement in an action for specific performance or injunction for the posting of a bond by Covered Entity.

7.4 Interpretation; Entire Agreement; Amendment. The headings of sections in this BAA are for reference only and shall not affect the meaning of this BAA. Any ambiguity in this BAA shall be resolved to permit Covered Entity and Business Associate to comply with HIPAA and/or the HITECH Act. With respect to the subject matter of this BAA, this BAA supersedes all previous contracts by and between the parties and, together with the Agreement, constitutes the entire agreement between the parties. In the event that a provision of this BAA conflicts with a provision of the Agreement, the provision of this BAA shall control; provided, however, that to the extent that any provision within the Agreement imposes more stringent requirements than that required in the BAA, the parties agree to adhere to the terms of the Agreement. Otherwise, this BAA shall be construed under, and in accordance with, the terms of the Agreement. This BAA may be amended only by written agreement between the parties.

7.5 No Third Party Beneficiaries. Nothing express or implied in this BAA is intended to confer, nor shall anything herein confer, upon any person other than the parties and the respective successors and assigns of the parties any rights, remedies, obligations, or liabilities whatsoever.

7.6 General Terms. It is expressly agreed that the Business Associate is an independent contractor, not an employee or agent, of the Covered Entity. This BAA shall be governed by and construed in accordance with the laws of the State of Kansas, without regard to conflicts of law principles. The parties hereby irrevocably submit to the jurisdiction of the federal or state courts in the State of Kansas, over any dispute or proceeding arising out of this BAA and agree that all claims in respect of such dispute or proceeding shall be heard and determined in such court. The parties to this BAA hereby irrevocably waive, to the fullest extent permitted by applicable law, any objection which they may have to the venue of any such dispute brought in such court or any defense of inconvenient forum for the maintenance of such dispute. Unless otherwise prohibited by law or applicable professional standard each of the parties irrevocably, voluntarily and knowingly waives its right to a jury trial of any claim or cause of action based upon or arising out of this BAA or any dealings between the parties hereto relating to the subject matter hereof. The scope of this waiver is intended to be all-encompassing. It includes any and all disputes that may be filed in any court and that relate to the subject matter of this BAA, including, but not limited to, contract claims, tort claims, breach of duty claims and all other common law and statutory claims. It also includes any and all such claims that may be brought against CBIZ, Inc. or any of its subsidiaries and any of their respective personnel, current or former.

7.7 Limitation on Damages. Business Associate and its personnel shall not be liable to the Covered Entity for any claims, liabilities, causes of action, losses, damages (whether compensatory, consequential, special, indirect, incidental, punitive, exemplary, or of any other type or nature), costs and expenses (including, but not limited to attorneys' fees) in any way arising out of this BAA in any amount greater than the total actual and direct damages incurred except to the extent finally and judicially determined to have been the result of bad faith, gross negligence, or intentional or willful misconduct of Business Associate.

## COUNCIL ACTION FORM

## NEW BUSINESS ITEM NO. 2

**MEETING DATE:** JANUARY 21, 2020

**STAFF CONTACT:** ALAN ABRAMOVITZ, HUMAN RESOURCES MANAGER  
JAMES BELCHER, CHIEF OF POLICE

---

**Agenda Item:** Consider adopting an ordinance amending the City of Gardner's Base Salary Structure-Fiscal Year 2019-2020

**Strategic Priority:** Fiscal Stewardship  
Asset Management

**Department:** Administration-Human Resources

---

**Staff Recommendation:**

Staff recommends adopting an ordinance amending the City of Gardner's Base Salary Structure-Fiscal Year 2019-2020.

**Background/Description of Item:**

The addition of a Detective Sergeant position classification will better facilitate direct supervision of the Investigations Division. Currently, the three detectives report directly to the Administration Captain. The Captain is not in direct contact with the detectives on a daily basis. This recommended position will not be an addition to the staff of the Investigations Division. If the most qualified candidate for the position is not currently assigned to Investigations, one of the current detectives will be moved back to patrol. If one of the current detectives is the most qualified, they will be promoted to Sergeant and there will be no backfilling of the detective position at this time. The Patrol Division has three sergeants and three corporals that directly interact and supervise the patrol officers. The Patrol Sergeant reports directly to the Operations Captain. The creation of the Detective Sergeant position will bring the Investigations Division into line with the Patrol Division and allow for better direct supervision. This position classification is requested to improve direct supervision and prepare the division for future growth.

**Financial Impact:**

The estimated annualized cost of a promotion to this position is \$3,438.24

**Attachments included:**

- *Revised 2019-2020 Base Salary Structure*
- *Ordinance Revising the City of Gardner's Base Salary Structure-Fiscal Year 2019-2020.*
- *Job Description of Detective Sergeant*

**Suggested Motion:**

Adopt Ordinance No. 2645, an ordinance adopting a revised City of Gardner Base Salary Structure-Fiscal Year 2019-2020.

# SALARY SCHEDULE - 2019-2020



## City of Gardner Base Salary Structure Fiscal Year 2019-2020

Range	Position	Monthly Minimum	Monthly Maximum
1	Airport Maintenance Worker Assistant Court Clerk Customer Service Representative Police Clerk	\$2,346	\$3,519
2	Accounting Clerk Administrative Assistant Animal Control Officer Maintenance Worker – Streets/Line/Parks/Water/Sewer Mechanic Meter Reader/Technician Municipal Court Clerk Police Records Clerk Utility Inventory Clerk	\$2,707	\$4,061
3	Code Enforcement Officer Maintenance Worker- Electric Payroll Clerk Planning Technician Plant Operator– Water/Wastewater Property Evidence Technician Recreation Specialist Senior Maintenance Worker Streets/Line/Parks/Plant Utility Billing Specialist	\$3,124	\$4,686
4	Apprentice Electric Lineman Apprentice Electric Operator Building Inspector Chief Operator-Water/Wastewater Crew Leader Parks/Streets/Line Engineering Technician II/Public Works/Electric Police Officer 1 & 2 Recreation Supervisor Risk Coordinator Senior Maintenance Worker - Electric Special Events Coordinator	\$3,606	\$5,408
5	Accountant Building Maintenance Supervisor Executive Assistant GIS Analyst Information Technology Specialist Planner I Police Corporal Police Detective Human Resources Partner	\$4,161	\$6,241
6	City Clerk Grant Program Coordinator Journeyman Electric Operator Journeyman Lineman Journeyman Meterman Line Maintenance Superintendent Management Analyst Parks Superintendent Plant Superintendent Water/Wastewater Principal Planner Police Detective Sergeant Police Sergeant Recreation Superintendent	\$4,786	\$7,178



# SALARY SCHEDULE - 2019-2020



	Senior Accountant		
7	Chief Planner Lead Electric Operator Lead Lineman Police Lieutenant Public Works Superintendent Senior Management Analyst Staff Engineer/Public Works/Utility	\$5,503	\$8,255
8	Business Services Manager Communications Manager Electric Distribution Manager Fiscal Services Manager Human Resources Manager Information Technology Manager Police Captain Senior Staff Engineer	\$6,329	\$9,493
9	Business and Economic Development Director City Engineer Parks and Recreation Director	\$7,278	\$10,917
10	Chief of Police Finance Director Public Works Director Utility Director	\$8,370	\$12,555

\* Does not include the City Administrator

**ORDINANCE NO. 2645**

**AN ORDINANCE ADOPTING A REVISED CITY OF GARDNER BASE SALARY STRUCTURE FISCAL YEAR 2019-2020.**

WHEREAS, the City Code at Section 2.10.100(F) provides that the City Administrator shall recommend an appropriate position and classification system and pay plan and shall further recommend advancements and appropriate pay increases within the approved pay plans and position classification system to the Mayor and City Council; and the City Code at Section 2.40.040 provides that the pay scale of the various City officers and employees shall be established by City ordinance; and

WHEREAS, the Governing Body desires to implement changes to the Base Salary Structure regarding position classification;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GARDNER, KANSAS:

SECTION ONE: Adoption of a revised City of Gardner Base Salary Structure- Fiscal Year 2019-2020: The attached hereto as Exhibit A is hereby adopted.

SECTION TWO: Any prior ordinances adopting any City of Gardner Base Salary Structure and Pay Plan are hereby amended and repealed to be consistent with Exhibit A attached hereto.

PASSED by the City Council this 21st day of January, 2020.

SIGNED by the Mayor this 21st day of January, 2020.

CITY OF GARDNER, KANSAS

(SEAL)

\_\_\_\_\_  
Steve Shute, Mayor

Attest:

\_\_\_\_\_  
Amy Nasta, City Clerk

Approved as to form:

\_\_\_\_\_  
Ryan B. Denk, City Attorney



## City of Gardner Position Description

### DETECTIVE SERGEANT

*Position Title:* Detective Sergeant  
*Department:* Police  
*Reports To:* Police Captain  
*Salary Range:* 6 Non-Exempt  
*FLSA Status:* Eligible for overtime pay  
*Last Update:* 1/09/2020

#### **Job Summary:**

The Detective Sergeant provides a full range of law enforcement services to the community in the protection of life and property and is responsible for the efficient performance of Detectives. A Detective Sergeant must have considerable knowledge of investigations work and be familiar with laws and ordinances governing local police activities in order to instruct subordinates in procedures and work methods.

#### **Job Scope:**

Duties are performed in accordance with departmental rules, instructions, and the laws governing the exercise of their authority. A Detective Sergeant receives general instructions from a Captain regarding assignments and procedures to be followed. Specific instructions are received when exceptional problems arise. A Detective Sergeant exercises immediate supervision over detectives assigned, and school resource officers and assists them when necessary and is responsible for enforcement of Federal, State, County, and City laws and ordinances.

#### **Essential Duties and Responsibilities:**

- Performs the duties of a police officer and provides full range of law enforcement services to the community.
- Checks detectives, and school resource officers in the performance of duties and makes suggestions for better execution of work.
- Takes active charge in serious or unusual situations.
- Checks reports of detectives, and school resource officers and personally makes reports to officers of higher rank.
- Observes faults of detectives, and school resource officers and reports any breach of duty or inefficiency.
- Responsible for the development and mentoring of detectives, and school resource officers.
- Provides constructive criticism and timely feedback to subordinates when necessary.
- Prepares and oversees department scheduling for investigations Division.
- Develops Operation Plan for Special Events.
- May be assigned to provide In-Service Training for officers.
- Responds to scenes of major crimes, and accidents, secures evidence and questions witnesses, suspects and other persons.
- Performs initial on scene command at critical incident scenes until relieved by higher authority.
- Assists in prosecution of suspects by making arrests, preparing reports and giving testimony at trials.
- Acts for officers of higher rank during their absence.
- Performs other related duties as deemed necessary or as required.
- Responsible for coordinating communication and teamwork between investigations and patrol divisions.

#### **Education, Certification and Experience Requirements:**

Graduation from a standard high school, supplemented by training of a certified law enforcement academy or center; a minimum of four (4) years of law enforcement experience; or any combination of training and experience which provides the required knowledge, ability and skill. Bachelor Degree preferred, Requires the possession of a valid driver's license and a good driving record. Must have a minimum of two (2) years of investigations experience. Must be able to maintain a proficiency in firearms to Kansas Law Enforcement Training Center (KLETTC) Standards. Physical and mental fitness required, and at least 21 years of age at the time of appointment.

**Skills, Knowledge and Abilities:**

- Thorough knowledge of modern law enforcement principles, procedures, techniques and equipment; considerable knowledge of applicable laws, ordinances and department policies and directives.
- Ability to train and supervise subordinate personnel; ability to perform work requiring good physical condition; ability to communicate effectively both orally and in writing; ability to establish and maintain effective working relationships, with judgment in evaluating situations and in making decisions; ability to give verbal and written instructions.
- Ability to obtain facts by interrogation and interview, to analyze and appraise such facts, and to arrive at logical conclusions based upon the results of investigations.
- Ability to establish and maintain effective working relationships with superiors, subordinates, other employees, and the general public contacted in the course of work.
- Thorough knowledge of geography of the City and outskirts of jurisdiction.
- Ability to provide in-house training for subordinates.
- Willingness to work flexible hours, including nights, weekends and holidays.

**Tools and Equipment Used:**

Personal computer including word processing and spreadsheet applications, telephone, copier, facsimile, police car, police radio, handgun and other weapons.

**Physical Demands:**

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions. This position requires light physical work requiring the ability to walk, run, and/or climb over rough or difficult terrain, the ability to drive and work in inclement weather conditions, visual acuity, ability to communicate with co-workers and general public, and the ability to work safely in hazardous situations. Requires ability to sit and talk and hear, occasionally lift fifty to one hundred (50-100) pounds, flexibility of body, manual dexterity and hand/eye coordination adequate to use equipment as assigned.

**Work Environment:**

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions. While performing the duties of this job, the employee normally works both outside and within an office environment. Noise levels range from moderately quiet to very noisy.

**Selection Guidelines:**

Formal application, rating of education and experience and successful completion of oral interviews. Job related tests including assessments may be required at the discretion of the Chief of Police.

---

*The City of Gardner is an equal opportunity employer. Any applicant/employee with a disability as defined in the Americans with Disabilities Act may request an accommodation to perform the functions of this position. Requests should be directed to the immediate supervisor.*

The duties listed above are intended only as illustrations of the various types of work performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position.

The job description does not constitute an employment agreement between the employer and the employee and is subject to change by the employer as the needs of the employer and requirements of the job change.

## COUNCIL ACTION FORM

## NEW BUSINESS ITEM NO. 3

**MEETING DATE:** JANUARY 21, 2020

**STAFF CONTACT:** LARRY POWELL, BUSINESS & ECO DEV DIRECTOR

---

**Agenda Item:** Consider accepting voluntary annexation with landowner consent

**Strategic Priority:** Promote Economic Development  
Fiscal Stewardship

**Department:** Business and Economic Development

---

### **Staff Recommendation:**

Staff recommends the City Council adopt an ordinance annexing a series of parcels of land (see attached legal descriptions and maps) located along or near 199<sup>th</sup> Street. All are voluntary consent annexations filed under various ownerships. The lots are located adjacent to the city limits of Gardner, in Johnson County, Kansas.

### **Background/Description of Item:**

Consents to Annexation into the City of Gardner have been received by property owners located on or near 199<sup>th</sup> Street between Interstate 35 and Clare Road. The land described in the attached agreements can be annexed into the City pursuant to K.S. A. 12-520.

The attached Voluntary Consent Annexation Agreements outline the terms agreed upon by the City and property owners as conditions for this consent annexation. The terms are consistent with the direction of the governing body regarding annexation of rural properties in the City's planning and growth area east of Interstate 35.

Consent annexations are not subject to resolution, notice, public hearing, and extension of services plan requirements that may apply to other annexations.

### **Financial Impact:**

None

### **Attachments included:**

- Ordinance 2646
- Voluntary Consent Annexation Agreements/Consent for Annexation Forms
- Maps

### **Suggested Motion:**

Accept the Voluntary Consent Annexation Agreements and Consent Annexation Requests from the property owners identified within and adopt Ordinance No. 2646, an ordinance annexing land to the City of Gardner, Kansas.

**ORDINANCE NO. 2646**

AN ORDINANCE ANNEXING LAND TO THE CITY OF GARDNER, KANSAS.

WHEREAS, the following described land is located in Johnson County, Kansas;

WHEREAS, written petitions and/or consents for annexation of the following described land, signed by all of the owners thereof, have been filed with the City of Gardner, Kansas pursuant to K.S.A. 12-520(a)(7), as amended; and

WHEREAS, the governing body of the City of Gardner, Kansas, finds it advisable to annex such land.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GARDNER, KANSAS:

Section 1. That the following described land is hereby annexed and made a part of the City of Gardner, Kansas:

See Exhibit A attached hereto.

Section 2. That this ordinance shall be effective from and after its passage, approval and publication in the official city newspaper.

{The remainder of this page left blank intentionally.}

PASSED AND APPROVED by the Governing Body of the City of Gardner, Kansas this  
21<sup>st</sup> day of January, 2020.

---

Steve Shute, Mayor

ATTEST:

---

Sharon Rose, City Clerk

APPROVED AS TO FORM:

---

Ryan B. Denk, City Attorney

## **EXHIBIT A**

### Tract 1

The South 408.40 feet of the East 533.30 feet of the Southeast Quarter of Section 6, Township 15, Range 23, in Johnson County, Kansas, except the East 20 feet and except the South 40 feet, including the entirety of the width of the right of way immediately South of the annexed property known as 199<sup>th</sup> Street and including the entirety of the width of the right of way immediately East of the annexed property known as Cedar Niles Road.

### Tract 2

**Legal Description: The South 1/2 of the Southwest 1/4 of Section 5, Township 15, Range 23, in Johnson County, Kansas:**

**EXCEPT that part deeded in Book 823 at Page 573, described as follows:**

A tract of land in the Southwest 1/4 of Southwest 1/4 of Section 5, Township 15, Range 23, Johnson County, Kansas, more particularly described as follows: Beginning at the Southeast corner of the Southwest 1/4 of the Southwest 1/4 of Section 5, thence South 89 degrees 11 minutes 30 seconds West along the South line of the Southwest 1/4 of said Section 5, a distance of 324.32 feet to the true point of beginning of subject tract, thence North 0 degrees 48 minutes 30 seconds West a distance of 330.0 feet; thence West parallel to South line of Section 5, a distance of 165 feet, thence South a distance of 330.0 feet, thence East along South line of Section 5 a distance of 165.0 feet to the true point of beginning;

**EXCEPT that part deeded in Book 1360 at Page 65, described as follows:**

Beginning at the Southeast corner of the Southeast 1/4 of the Southwest 1/4 of Section 5, Township 15, Range 23, Johnson County, Kansas; thence North 0 degrees 23 minutes 38 seconds West, along the East line of the Southeast 1/4 of the Southwest 1/4, 1334.74 feet to the Northeast corner; thence South 89 degrees 18 minutes 26 seconds West along the North line of the Southeast 1/4 of the Southwest 1/4, 325.35 feet; thence South 0 degrees 26 minutes 18 seconds East, 1335.39 feet to a point on the South line of the Southeast 1/4 of the Southwest 1/4 of Section 5, thence North 89 degrees 11 minutes 30 seconds East, along the South line of the Southeast 1/4 of the Southwest 1/4, 324.32 feet to the point of beginning.

**EXCEPT that part deeded in Book 1481 at Page 348, described as follows:**

The West 3/4 of the Southeast 1/4 of the Southwest 1/4 of Section 5, Township 15, Range 23, Johnson County, Kansas, described as follows: Beginning at a point on the South line of the West

3/4 of the Southeast 1/4 of the Southwest 1/4 of Section 5, 324.32 feet West of the Southeast corner thereof; thence South 89 degrees 11 minutes 30 seconds West, along the South line, 972.97 feet; thence North 0 degrees 34 minutes 17 seconds West, along the West line of the West 3/4 of the Southeast 1/4 of the Southwest 1/4 of Section 5, 1337.34 feet; thence North 89 degrees 18 minutes 26 seconds East, along the North line of the Southeast 1/4 of the Southwest 1/4, 976.06 feet; thence South 0 degrees 26 minutes 18 seconds East, along the East line of the West 3/4 of the Southeast 1/4 of the Southwest 1/4 of Section 5, 1335.39 feet to the point of beginning, except any part taken for public roads.

**EXCEPT** that part deeded in Book 5352 at Page 978, described as follows:

All that part of the Southwest 1/4 of the Southwest 1/4 of Section 5, Township 15, Range 23, in Johnson County, Kansas, being more particularly described as follows: Commencing at the Southwest corner of the Southwest 1/4 of said Section 5; thence North 0 degrees 44 minutes 53 seconds West, along the West line of the Southwest 1/4 of said Section 5, a distance of 643.76 feet, to the true point of beginning; thence continuing North 0 degrees 44 minutes 53 seconds West along the West line of the Southwest 1/4 of said Section 5, a distance of 695.76 feet, to the Northwest corner of the Southwest 1/4 of the Southwest 1/4 of said Section 5; thence North 89 degrees 17 minutes 09 seconds East, along the North line of the Southwest 1/4 of the Southwest 1/4 of said Section 5, a distance of 1301.63 feet, to the Northeast corner thereof; thence South 0 degrees 33 minutes 43 seconds East, along the East line of the Southwest 1/4 of the Southwest 1/4 of said Section 5, a distance of 1337.36 feet, to the Southeast corner thereof; thence South 89 degrees 11 minutes 25 seconds West, along the South line of the Southwest 1/4 of said Section 5, a distance of 324.32 feet; thence North 0 degrees 48 minutes 35 seconds West, along a line perpendicular to the last described course, a distance of 642.95 feet, to a point 26 feet South of the South line of the North 1/2 of the Southwest 1/4 of the Southwest 1/4 of said Section 5; thence South 89 degrees 14 minutes 17 seconds West, along a line 26 feet South of the South line of the North 1/2 of the Southwest 1/4 of the Southwest 1/4 of said Section 5; thence South 89 degrees 14 minutes 17 seconds West, along a line 26 feet South of the South line of the North 1/2 of the Southwest 1/4 of the Southwest 1/4 of said Section 5, a distance of 972.25 feet, to the true point of beginning, Except that part in streets or roads.

**EXCEPT** that part deeded in Book 5362 at Page 919, described as follows:

All that part of the Southwest 1/4 of Section 5, Township 15, Range 23, in Johnson County, Kansas, being more particularly described as follows: Commencing at the Southwest corner of the Southwest 1/4 of said Section 5; thence North 89 degrees 11 minutes 25 seconds East, along the South line of the Southwest 1/4 of said Section 5, a distance of 807.97 feet; thence North 0 degrees 48 minutes 35 seconds West, along a line perpendicular to the last described course, a distance of 300.00 feet, to the True Point of Beginning; thence continuing North 0 degrees 48 minutes 35 seconds West, a distance of 343.08 feet, to a point 26 feet South of the North line of the South Half

of the Southwest 1/4 of the southwest 1/4 of said Section 5; thence North 89 degrees 14 minutes 17 seconds East along a line 26 feet South of and parallel to the North line of the South Half of the Southwest 1/4 of the Southwest 1/4 of said Section 5, a distance of 165.00 feet; thence South 0 degrees 48 minutes 35 seconds East, along a line perpendicular to the South line of the Southwest 1/4 of Section 5, a distance of 342.95 feet; thence South 89 degrees 11 minutes 25 seconds West, along line parallel to the South line of the Southwest 1/4 of said Section 5, a distance of 165.00 feet, to the true point of beginning, Except that part in streets and roads.

Also including the entirety of the width of the public right of way immediately West of the annexed property known as Cedar Niles Road and including the entirety of the width of the public right of way immediately South of the annexed property known as 199<sup>th</sup> Street.



### Tract 3

A tract of land in the Southwest  $\frac{1}{4}$  of Southwest  $\frac{1}{4}$  of Section 5, Township 15, Range 23, Johnson County, Kansas, more particularly described as follows: Beginning at the Southeast corner of the Southwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of Section 5, thence South 89 degrees-11' 30" West along the South line of the Southwest  $\frac{1}{4}$  of said Section 5, a distance of 324.32 feet to the true point of beginning of subject tract, thence North 0 degrees- 48' 30" West a distance of 330.0 feet thence West parallel to South line of Section 5 a distance of 165 feet, thence South a distance of 330.0 feet, thence East along South line of Section 5 a distance of 165.0 feet to true point of beginning.

### Tract 4

All that part of the SW $\frac{1}{4}$  of Section 5, Township 15, Range 23, in Johnson County, Kansas, being more particularly described as follows: Commencing at the Southwest corner of the SW $\frac{1}{4}$  of said Section 5; thence N 89 11'25" E, along the South line of the SW $\frac{1}{4}$  of said Section 5, a distance of 807.97 feet; thence N 0 48'35" W, along a line perpendicular to the last described course, a distance of 300.00 feet, to the True Point of Beginning; thence continuing N 0 48'35" W, a distance of 343.08 feet, to a point 26 feet South of the North Line of the South Half of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of said Section 5; thence N 89 14'17"E, along a line 26 feet South of and parallel to the North line of the South Half of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of said Section 5, a distance of 165.00 feet; thence S 0 48'35" E, along a line perpendicular to the South line of the SW $\frac{1}{4}$  of Section 5, a distance of 342.95 feet; thence S 89 11'25" W, along a line parallel to the south line of the SW $\frac{1}{4}$  of said Section 5, a distance of 165.00 feet, to the true point of beginning containing 1.299 Acres, more or less.

Also including the entirety of the width of the public right of way immediately South of the annexed property known as 199<sup>th</sup> Street.

### Tract 5

Lot 2, T & K FARMS, a subdivision of land in Johnson County, Kansas, including the entirety of the width of the public right of way immediately South of the annexed property known as 199<sup>th</sup> Street.

## VOLUNTARY CONSENT ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT is made and entered into this 9<sup>th</sup> day of January, 2020, between the City of Gardner, Kansas, a municipal corporation, (the City) and Adam S. Taylor and Lauren M. Taylor (Owners).

### RECITALS

- A. The Property Owner(s) are the owners of record of the following described real property ("Property") located in unincorporated areas of Johnson County, Kansas adjacent to or within a platted subdivision adjacent to the City of Gardner, Kansas.

#### Legal Description:

The South 408.80 feet of the East 533.30 feet of the Southeast Quarter of Section 6, Township 15, Range 23, in Johnson County, Kansas, except that part in streets or roads and except the East 20 feet and except the South 40 feet (Exhibit A).

- B. The Owner has evinced an intent that the Property be annexed by the City and has, to that effect, signed a Consent to Annexation, dated January 9<sup>th</sup>, 2020, and will be filed by the City with the Office of Register of deeds for Johnson County, Kansas. (A copy of the executed and filed Consent to Annexation is affixed hereto as Exhibit B).

**NOW, THEREFORE**, in consideration of the mutual promises and obligations contained herein, and in exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

1. **Consent to Annexation.** Property Owner(s) consents to annexation of the Property into the City of Gardner, Kansas. In the event of a default of any of the City's obligations under this Agreement, the Property Owner(s) sole recourse shall be to petition the City for de-annexation.
2. **Property Tax Abatement.** Prior to the Key Development Point, for a period not to exceed twenty (20) years, the City agrees to rebate the City's portion of the Property Owner's ad valorem taxes on the Property to the Property Owner(s) in accordance with the City's rebate policy. For purposes of this paragraph the Key Development Point is defined as the earlier of: (1) rezoning of the property to a use other than A (Agricultural), RUR (Rural) or RLD (Residential Low Density); or (2) sale of the property to subsequent property owner who commits the use of the property to a use other than the present agricultural or residential low density use. City also agrees that Property Owner shall not be required to make other payments for City services that Property Owner does not use.
3. **Extension of City Services.** The parties agree that the Property is currently adequately served by existing utilities. Accordingly, public Infrastructure will not be improved until

such time when the Governing Body shall determine that such improvements are necessary, prudent and feasible for the betterment of the City. Nothing in this agreement shall require the Governing Body to approve or establish any benefit district for the financing of public infrastructure except where required by Law.

- a. The parties agree that the Property owners will not be required to connect to the city's current or a future sewer system as long as they have a functional septic tank or sanitary system serving the property.
4. **Zoning.** The Property is currently zoned Rural (RUR) by the County. Pursuant to Kansas law, following annexation, the Property shall retain its County zoning until such time that a rezoning of the property may be approved. Similarly, again pursuant to Kansas law, any legal, non-conforming uses existing on the Property immediately preceding annexation may continue until such time as any such use loses its legal, non-conforming use status under the laws of this State.
5. **Acceptance of Annexation.** The annexation will not become effective until after the City Council formally approves and adopts the necessary Annexation Ordinance as required by Kansas Statutes and said ordinance is published once in the official City newspaper.
6. **Savings Clause.** In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, nor shall such invalidity, illegality or unenforceability affect the validity, legality or enforceability of the remainder of the Agreement. Furthermore, the parties agree that such invalid, illegal or unenforceable provision may be reformed to the greatest extent permitted by law to most closely meet the intent of the parties in effecting the purpose expressed by the contractual provision deemed invalid, illegal or unenforceable.
7. This document shall constitute the entire Agreement between the undersigned landowner(s) and the City of Gardner, Kansas.

Now, therefore, in consideration of the City of Gardner's agreeing to the above conditions for the above described property, the undersigned does give full and complete consent to the City of Gardner to annex the above described property in accordance with the laws of the state of Kansas at any time after the date of this agreement.

This agreement shall run with the land described and shall be binding upon the heirs, grantees successors and assigns of the undersigned.

ADOPTED BY THE CITY COUNCIL AND SIGNED BY THE MAYOR OF GARDNER, KANSAS ON THE \_\_\_\_\_

DAY OF \_\_\_\_\_, 2020.

CITY OF GARDNER, KANSAS

BY: \_\_\_\_\_

Steve Shute, Mayor

ATTEST:

\_\_\_\_\_  
Sharon Rose, City Clerk

Approved as to form:

\_\_\_\_\_  
Ryan Denk, City Attorney

In Witness thereof, the undersigned have caused this agreement to be executed on \_\_\_\_ day of \_\_\_\_\_, 2020.

Owners of Record:

By: Adam S. Taylor  
Adam S. Taylor

By: Lauren M. Taylor  
Lauren M. Taylor

State of Kansas

County of Johnson

The foregoing instrument was acknowledged before me this 09 day of January,

2020 by Ilena A. Spalding

Notary Public



Seal

EXHIBIT A

Platinum Title, LLC  
13661 South Mur-Len Rd.  
Olathe, KS 66062  
20195098

JO CO KS	BK:201909	PG:000486
	20190904-0000486	
Electronic Recording		9/4/2019
Pages: 2	F: \$38.00	8:46 AM
Register of Deeds		T20190047657

**KANSAS WARRANTY DEED**  
(Kansas Statutory Form)

**THIS INDENTURE**, Made on 8/27/19 by and between

Grantor: **Susan J. Coyne-Gausden, Trustee of the Susan M. Coyne 2012 Irrevocable Trust dated April 23, 2012**

**For One Dollar and other valuable considerations conveys and warrants to**

Grantee: **Adam S. Taylor and Lauren M. Taylor, a married couple** as joint tenants with the right of survivorship and not as tenants in common

(Mailing address of said first named grantee is: 19870 Cedar Niles Rd., Gardner, KS 66030)

the following described real estate:

Legal Description:

The South 408.40 feet of the East 533.30 feet of the Southeast Quarter of Section 6, Township 15, Range 23, in Johnson County, Kansas, except that part in streets or roads and except the East 20 feet and except the South 40 feet.

The Grantor herein states that this deed is given pursuant to the powers conferred by the Trust Agreement and that said Agreement remains in full force and effect at this time and has not been amended, revoked or terminated.

19870 Cedar Niles Rd., Gardner, KS 66030

**SUBJECT TO COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS, IF ANY, NOW OF RECORD.**

**TO HAVE AND TO HOLD** The premises aforesaid with all and singular, the rights, privileges, appurtenances and immunities thereto belonging or in any wise appertaining unto the said party(ies) of the second part and unto his/her/their heirs/successors and assigns forever; the said party(ies) of the first part hereby covenanting that he/she/they lawfully seized of an indefeasible estate in fee of the premises herein conveyed; that he/she/they has/have good right to convey the same; that the said premises are free and clear from any encumbrance done or suffered by him/her/them or those under whom he/she/they claim; and that he/she/they will warrant and defend the title to the said premises unto the said party(ies) of the second part and unto his/her/their heirs/successors and assigns forever, against the lawful claims and demands of all persons whomsoever.

IN WITNESS WHEREOF, The said grantor(s) has/have hereunto set his/her/their hand(s) and seal the day and year above written.

Susan J. Coyne-Gausden  
Susan J. Coyne-Gausden, Trustee

State of Kansas NE )

County of Johnson Douglas )

On this 27 day of August, 2019, before me, the undersigned, a Notary Public in and for the County and State aforesaid, personally appeared Susan J. Coyne-Gausden, Trustee of the Susan M. Coyne 2012 Irrevocable Trust dated April 23, 2012 to me known to be the person described in and who executed the foregoing instrument and acknowledged that Susan J. Coyne-Gausden, Trustee of the Susan M. Coyne 2012 Irrevocable Trust dated April 23, 2012, executed the same for the purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal at my office, the day and year last above written.

My Commission Expires: Feb 3, 2023

Michelle L. Smithberg  
Notary Public  
Michelle L. Smithberg  
Printed Name



Exhibit B

CONSENT FOR ANNEXATION

(Adjoining property by request)

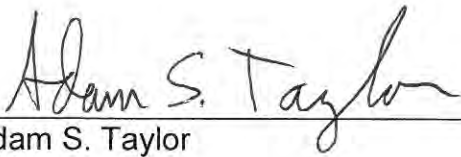
To: The Governing Body of the City of Gardner, Kansas.

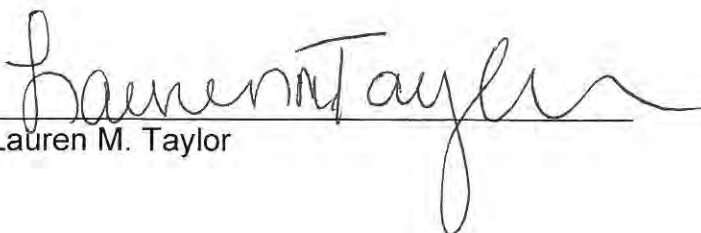
The undersigned owners of record of the following described land hereby petition the Governing Body of the City of Gardner, Kansas to annex such land to the city. The land to be annexed is described as follows:

The South 408.80 feet of the East 533.30 feet of the Southeast Quarter of Section 6, Township 15, Range 23, in Johnson County, Kansas, except that part in streets or roads and except the East 20 feet and except the South 40 feet (Exhibit A).

Such land lies upon or touches the city boundary line.

The undersigned further warrant and guarantee that they are the only owners of record of the land. Signed this 9<sup>th</sup> day of January, 2020.

  
Adam S. Taylor

  
Lauren M. Taylor



## **VOLUNTARY CONSENT ANNEXATION AGREEMENT**

THIS ANNEXATION AGREEMENT is made and entered into this 7<sup>th</sup> day of January, 2020, between the City of Gardner, Kansas, a municipal corporation, (the City) and Aaron C. Morris and Aimee S. Morris (Property Owner(s)).

### **RECITALS**

- A. The Property Owner(s) are the owners of record of the following described real property ("Property") located in unincorporated areas of Johnson County, Kansas adjacent to or within a platted subdivision adjacent to the City of Gardner, Kansas.

**Legal Description: The South 1/2 of the Southwest 1/4 of Section 5, Township 15, Range 23, in Johnson County, Kansas:**

**EXCEPT that part deeded in Book 823 at Page 573, described as follows:**

A tract of land in the Southwest 1/4 of Southwest 1/4 of Section 5, Township 15, Range 23, Johnson County, Kansas, more particularly described as follows: Beginning at the Southeast corner of the Southwest 1/4 of the Southwest 1/4 of Section 5, thence South 89 degrees 11 minutes 30 seconds West along the South line of the Southwest 1/4 of said Section 5, a distance of 324.32 feet to the true point of beginning of subject tract, thence North 0 degrees 48 minutes 30 seconds West a distance of 330.0 feet; thence West parallel to South line of Section 5, a distance of 165 feet, thence South a distance of 330.0 feet, thence East along South line of Section 5 a distance of 165.0 feet to the true point of beginning;

**EXCEPT that part deeded in Book 1360 at Page 65, described as follows:**

Beginning at the Southeast corner of the Southeast 1/4 of the Southwest 1/4 of Section 5, Township 15, Range 23, Johnson County, Kansas; thence North 0 degrees 23 minutes 38 seconds West, along the East line of the Southeast 1/4 of the Southwest 1/4, 1334.74 feet to the Northeast corner; thence South 89 degrees 18 minutes 26 seconds West along the North line of the Southeast 1/4 of the Southwest 1/4, 325.35 feet; thence South 0 degrees 26 minutes 18 seconds East, 1335.39 feet to a point on the South line of the Southeast 1/4 of the Southwest 1/4 of Section 5, thence North 89 degrees 11 minutes 30 seconds East, along the South line of the Southeast 1/4 of the Southwest 1/4, 324.32 feet to the point of beginning.

**EXCEPT that part deeded in Book 1481 at Page 348, described as follows:**

**The West 3/4 of the Southeast 1/4 of the Southwest 1/4 of Section 5, Township 15, Range 23, Johnson County, Kansas, described as follows: Beginning at a point on the South line of the West**

3/4 of the Southeast 1/4 of the Southwest 1/4 of Section 5, 324.32 feet West of the Southeast corner thereof; thence South 89 degrees 11 minutes 30 seconds West, along the South line, 972.97 feet; thence North 0 degrees 34 minutes 17 seconds West, along the West line of the West 3/4 of the Southeast 1/4 of the Southwest 1/4 of Section 5, 1337.34 feet; thence North 89 degrees 18 minutes 26 seconds East, along the North line of the Southeast 1/4 of the Southwest 1/4, 976.06 feet; thence South 0 degrees 26 minutes 18 seconds East, along the East line of the West 3/4 of the Southeast 1/4 of the Southwest 1/4 of Section 5, 1335.39 feet to the point of beginning, except any part taken for public roads.

EXCEPT that part deeded in Book 5352 at Page 978, described as follows:

All that part of the Southwest 1/4 of the Southwest 1/4 of Section 5, Township 15, Range 23, in Johnson County, Kansas, being more particularly described as follows: Commencing at the Southwest corner of the Southwest 1/4 of said Section 5; thence North 0 degrees 44 minutes 53 seconds West, along the West line of the Southwest 1/4 of said Section 5, a distance of 643.76 feet, to the true point of beginning; thence continuing North 0 degrees 44 minutes 53 seconds West along the West line of the Southwest 1/4 of said Section 5, a distance of 695.76 feet, to the Northwest corner of the Southwest 1/4 of the Southwest 1/4 of said Section 5; thence North 89 degrees 17 minutes 09 seconds East, along the North line of the Southwest 1/4 of the Southwest 1/4 of said Section 5, a distance of 1301.63 feet, to the Northeast corner thereof; thence South 0 degrees 33 minutes 43 seconds East, along the East line of the Southwest 1/4 of the Southwest 1/4 of said Section 5, a distance of 1337.36 feet, to the Southeast corner thereof; thence South 89 degrees 11 minutes 25 seconds West, along the South line of the Southwest 1/4 of said Section 5, a distance of 324.32 feet; thence North 0 degrees 48 minutes 35 seconds West, along a line perpendicular to the last described course, a distance of 642.95 feet, to a point 26 feet South of the South line of the North 1/2 of the Southwest 1/4 of the Southwest 1/4 of said Section 5; thence South 89 degrees 14 minutes 17 seconds West, along a line 26 feet South of the South line of the North 1/2 of the Southwest 1/4 of the Southwest 1/4 of said Section 5; thence South 89 degrees 14 minutes 17 seconds West, along a line 26 feet South of the South line of the North 1/2 of the Southwest 1/4 of the Southwest 1/4 of said Section 5, a distance of 972.25 feet, to the true point of beginning, Except that part in streets or roads.

EXCEPT that part deeded in Book 5362 at Page 919, described as follows:

All that part of the Southwest 1/4 of Section 5, Township 15, Range 23, in Johnson County, Kansas, being more particularly described as follows: Commencing at the Southwest corner of the Southwest 1/4 of said Section 5; thence North 89 degrees 11 minutes 25 seconds East, along the South line of the Southwest 1/4 of said Section 5, a distance of 807.97 feet; thence North 0 degrees 48 minutes 35 seconds West, along a line perpendicular to the last described course, a distance of 300.00 feet, to the True Point of Beginning; thence continuing North 0 degrees 48 minutes 35 seconds West, a distance of 343.08 feet, to a point 26 feet South of the North line of the South Half of the Southwest 1/4 of the southwest 1/4 of said Section 5; thence North 89 degrees 14 minutes 17 seconds East along a line 26 feet South of and parallel to the North line of the South Half of the Southwest 1/4 of the Southwest 1/4 of said Section 5, a distance of 165.00 feet; thence South 0 degrees 48 minutes 35 seconds East, along a line perpendicular to the South line of the Southwest 1/4 of Section 5, a distance of 342.95 feet; thence South 89 degrees 11 minutes 25 seconds West, along line parallel to the South line of the Southwest 1/4 of said Section 5, a distance of 165.00 feet, to the true point of beginning, Except that part in streets and roads.

- B. The Owner has evinced an intent that the Property be annexed by the City and has, to that effect, signed a Consent to Annexation, dated January 7th, 2020, and will be filed by the City with the Office of Register of deeds for Johnson County, Kansas. (A copy of the executed and filed Consent to Annexation is affixed hereto as Exhibit B).

C.

**NOW, THEREFORE**, in consideration of the mutual promises and obligations contained herein, and in exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

1. **Consent to Annexation.** Property Owner(s) consents to annexation of the Property into the City of Gardner, Kansas. In the event of a default of any of the City's obligations under this Agreement, the Property Owner(s) sole recourse shall be to petition the City for de-annexation.
2. **Property Tax Abatement.** Unless and until the Key Development Point is reached (as defined below), for a period of twenty (20) years, the City agrees to rebate the City's portion of the Property Owner's ad valorem taxes on the Property to the Property Owner(s) in accordance with the City's rebate policy. For purposes of this paragraph the Key Development Point is defined as the earlier of: (1) rezoning of the property to a use other than A (Agriculture), RUR (Rural) or RLD (Residential Low Density); or (2) sale of the property to subsequent property owner who commits the use of the property to a use other than the present agricultural or residential low density use. City also agrees that Property Owner shall not be required to make other payments for City services that Property Owner does not use.
3. **Extension of City Services.** The parties agree that the Property is currently adequately served by existing utilities. Accordingly, public Infrastructure will not be improved until such time when the Governing Body shall determine that such improvements are necessary, prudent and feasible for the betterment of the City. Nothing in this agreement shall require the Governing Body to approve or establish any benefit district for the financing of public infrastructure except where required by Law.
4. **Zoning.** The Property is currently zoned Rural (RUR) by the County. A copy of the County zoning regulations application to the RUR zoning district at the time of annexation are attached hereto as Exhibit C. Pursuant to Kansas law, following annexation, the Property shall retain its County zoning until such time that a rezoning of the property may be approved. Similarly, again pursuant to Kansas law, any legal, non-conforming uses existing on the Property immediately preceding annexation may continue until such time as any such use loses its legal, non-conforming use status under the laws of this State.



5. **Acceptance of Annexation.** The annexation will not become effective until after the City Council formally approves and adopts the necessary Annexation Ordinance as required by Kansas Statutes and said ordinance is published once in the official City paper of record.
6. **Savings Clause.** In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, nor shall such invalidity, illegality or unenforceability affect the validity, legality or enforceability of the remainder of the Agreement. Furthermore, the parties agree that such invalid, illegal or unenforceable provision may be reformed to the greatest extent permitted by law to most closely meet the intent of the parties in effecting the purpose expressed by the contractual provision deemed invalid, illegal or unenforceable.
7. This document shall constitute the entire Agreement between the undersigned landowner(s) and the City of Gardner, Kansas.

Now, therefore, in consideration of the City of Gardner's agreeing to the above conditions for the above described property, the undersigned does give full and complete consent to the City of Gardner to annex the above described property in accordance with the laws of the state of Kansas at any time after the date of this agreement.

This agreement shall run with the land described and shall be binding upon the heirs, grantees successors and assigns of the undersigned.

ADOPTED BY THE CITY COUNCIL AND SIGNED BY THE MAYOR OF GARDNER, KANSAS ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

CITY OF GARDNER, KANSAS

BY: \_\_\_\_\_  
Steve Shute, Mayor

ATTEST:

\_\_\_\_\_  
Sharon Rose, City Clerk

Approved as to form:

\_\_\_\_\_  
Ryan Denk, City Attorney

In Witness thereof, the undersigned have caused this agreement to be executed on \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Owners of Record:

By:

Aaron C. Morris, Owner

By:

Aimee S. Morris, Owner

State of Kansas

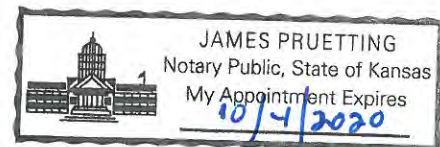
County of Johnson

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of January, 2020 by Aaron & Aimee Morris, who is (are) personally known to me to be the same person(s) who executed the within foregoing instrument and acknowledged to me that she executed the same as her free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS THEREOF, I have hereunto set my hand and official seal and the day and year last above written.

Notary Public

Seal



JO CO KS	BK:201608	PG:002630
20160805-0002630		
Electronic Recording	8/5/2016	
Pages: 3	F: \$37.00	4:14 PM
Register of Deeds	T20160044767	

Continental Title Company  
16228268

**Warranty Deed  
Joint Tenants**

This indenture, Made this 26<sup>th</sup> day of July, 2016 between **Velma E. Coiner**, A Single Person party (ies) of the first part, **Aaron C Morris and Aimee S Morris**, Husband and Wife As Joint Tenants with right of Survivorship, parties of the second part:

Witnesseth, that the said party of the first part, in Consideration of the sum of TEN Dollars and other valuable considerations, the receipt whereof is hereby acknowledged, does by these presents, grant, bargain, sell and convey unto said parties of the second part, their successors and/or assigns, all of the following described real estate, situated in the County of **Johnson** and State of **Kansas** to wit:

**Legal Description: The South 1/2 of the Southwest 1/4 of Section 5, Township 15, Range 23, in Johnson County, Kansas:**

**EXCEPT that part deeded in Book 823 at Page 573, described as follows:**

A tract of land in the Southwest 1/4 of Southwest 1/4 of Section 5, Township 15, Range 23, Johnson County, Kansas, more particularly described as follows: Beginning at the Southeast corner of the Southwest 1/4 of the Southwest 1/4 of Section 5, thence South 89 degrees 11 minutes 30 seconds West along the South line of the Southwest 1/4 of said Section 5, a distance of 324.32 feet to the true point of beginning of subject tract, thence North 0 degrees 48 minutes 30 seconds West a distance of 330.0 feet; thence West parallel to South line of Section 5, a distance of 165 feet, thence South a distance of 330.0 feet, thence East along South line of Section 5 a distance of 165.0 feet to the true point of beginning;

**EXCEPT that part deeded in Book 1360 at Page 65, described as follows:**

Beginning at the Southeast corner of the Southeast 1/4 of the Southwest 1/4 of Section 5, Township 15, Range 23, Johnson County, Kansas; thence North 0 degrees 23 minutes 38 seconds West, along the East line of the Southeast 1/4 of the Southwest 1/4, 1334.74 feet to the Northeast corner; thence South 89 degrees 18 minutes 26 seconds West along the North line of the Southeast 1/4 of the Southwest 1/4, 325.35 feet; thence South 0 degrees 26 minutes 18 seconds East, 1335.39 feet to a point on the South line of the Southeast 1/4 of the Southwest 1/4 of Section 5, thence North 89 degrees 11 minutes 30 seconds East, along the South line of the Southeast 1/4 of the Southwest 1/4, 324.32 feet to the point of beginning.

**EXCEPT that part deeded in Book 1481 at Page 348, described as follows:**

The West 3/4 of the Southeast 1/4 of the Southwest 1/4 of Section 5, Township 15, Range 23, Johnson County, Kansas, described as follows: Beginning at a point on the South line of the West



3/4 of the Southeast 1/4 of the Southwest 1/4 of Section 5, 324.32 feet West of the Southeast corner thereof; thence South 89 degrees 11 minutes 30 seconds West, along the South line, 972.97 feet; thence North 0 degrees 34 minutes 17 seconds West, along the West line of the West 3/4 of the Southeast 1/4 of the Southwest 1/4 of Section 5, 1337.34 feet; thence North 89 degrees 18 minutes 26 seconds East, along the North line of the Southeast 1/4 of the Southwest 1/4, 976.06 feet; thence South 0 degrees 26 minutes 18 seconds East, along the East line of the West 3/4 of the Southeast 1/4 of the Southwest 1/4 of Section 5, 1335.39 feet to the point of beginning, except any part taken for public roads.

EXCEPT that part deeded in Book 5352 at Page 978, described as follows:

All that part of the Southwest 1/4 of the Southwest 1/4 of Section 5, Township 15, Range 23, in Johnson County, Kansas, being more particularly described as follows: Commencing at the Southwest corner of the Southwest 1/4 of said Section 5; thence North 0 degrees 44 minutes 53 seconds West, along the West line of the Southwest 1/4 of said Section 5, a distance of 643.76 feet, to the true point of beginning; thence continuing North 0 degrees 44 minutes 53 seconds West along the West line of the Southwest 1/4 of said Section 5, a distance of 695.76 feet, to the Northwest corner of the Southwest 1/4 of the Southwest 1/4 of said Section 5; thence North 89 degrees 17 minutes 09 seconds East, along the North line of the Southwest 1/4 of the Southwest 1/4 of said Section 5, a distance of 1301.63 feet, to the Northeast corner thereof; thence South 0 degrees 33 minutes 43 seconds East, along the East line of the Southwest 1/4 of the Southwest 1/4 of said Section 5, a distance of 1337.36 feet, to the Southeast corner thereof; thence South 89 degrees 11 minutes 25 seconds West, along the South line of the Southwest 1/4 of said Section 5, a distance of 324.32 feet; thence North 0 degrees 48 minutes 35 seconds West, along a line perpendicular to the last described course, a distance of 642.95 feet, to a point 26 feet South of the South line of the North 1/2 of the Southwest 1/4 of the Southwest 1/4 of said Section 5; thence South 89 degrees 14 minutes 17 seconds West, along a line 26 feet South of the South line of the North 1/2 of the Southwest 1/4 of the Southwest 1/4 of said Section 5; thence South 89 degrees 14 minutes 17 seconds West, along a line 26 feet South of the South line of the North 1/2 of the Southwest 1/4 of the Southwest 1/4 of said Section 5, a distance of 972.25 feet, to the true point of beginning, Except that part in streets or roads.

EXCEPT that part deeded in Book 5362 at Page 919, described as follows:

All that part of the Southwest 1/4 of Section 5, Township 15, Range 23, in Johnson County, Kansas, being more particularly described as follows: Commencing at the Southwest corner of the Southwest 1/4 of said Section 5; thence North 89 degrees 11 minutes 25 seconds East, along the South line of the Southwest 1/4 of said Section 5, a distance of 807.97 feet; thence North 0 degrees 48 minutes 35 seconds West, along a line perpendicular to the last described course, a distance of 300.00 feet, to the True Point of Beginning; thence continuing North 0 degrees 48 minutes 35 seconds West, a distance of 343.08 feet, to a point 26 feet South of the North line of the South Half



of the Southwest 1/4 of the southwest 1/4 of said Section 5; thence North 89 degrees 14 minutes 17 seconds East along a line 26 feet South of and parallel to the North line of the South Half of the Southwest 1/4 of the Southwest 1/4 of said Section 5, a distance of 165.00 feet; thence South 0 degrees 48 minutes 35 seconds East, along a line perpendicular to the South line of the Southwest 1/4 of Section 5, a distance of 342.95 feet; thence South 89 degrees 11 minutes 25 seconds West, along line parallel to the South line of the Southwest 1/4 of said Section 5, a distance of 165.00 feet, to the true point of beginning, Except that part in streets and roads.

Subject to easements, reservations, and restrictions, if any of record.

To have and to hold the same, together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining forever.

And said party of the first part, for itself, and its successors and assigns, does hereby covenant, promise and agree, to and with said party (ies) of the second part, that at the delivery of these presents, it is lawfully seized in its own right of an absolute and indefeasible estate of inheritance, in fee simple, of and in all and singular the able granted and described premises, with the appurtenances; that the same are free, clear, discharged and unencumbered of and from all former and other grants, titles, charges, states, judgments, taxes, assessments and encumbrances, of what nature and kind so ever, and that it will Warrant and Forever Defend the same unto said party(ies) of the second part, his/her/their heirs and assigns, and all and every person or persons whomsoever, lawfully claiming or to claim the same.

In Witness whereof, said party (ies) of the first part has/have hereunto set his/her/their hand(s) the day and year last above written.

Velma E. Coiner

Velma E Coiner

State of Kansas

County of Johnson

BE IT REMEMBERED, That on 26th day of July, 2016 before me, a notary public, in and for said county and state aforesaid, came Velma E. Coiner personally known to me to be the same **PERSON(S)** who executed the within instrument of writing and such person(s) duly acknowledged the execution of the same. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year last above written.

Jenifer L Gamber Notary Public 2/18/18

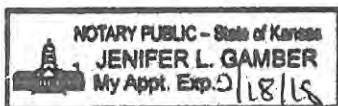


Exhibit B

CONSENT FOR ANNEXATION

(Adjoining property by request)

To: The Governing Body of the City of Gardner, Kansas.

The undersigned owners of record of the following described land hereby petition the Governing Body of the City of Gardner, Kansas to annex such land to the city. The land to be annexed is described as follows:

**Legal Description: The South 1/2 of the Southwest 1/4 of Section 5, Township 15, Range 23, in Johnson County, Kansas:**

**EXCEPT that part deeded in Book 823 at Page 573, described as follows:**

A tract of land in the Southwest 1/4 of Southwest 1/4 of Section 5, Township 15, Range 23, Johnson County, Kansas, more particularly described as follows: Beginning at the Southeast corner of the Southwest 1/4 of the Southwest 1/4 of Section 5, thence South 89 degrees 11 minutes 30 seconds West along the South line of the Southwest 1/4 of said Section 5, a distance of 324.32 feet to the true point of beginning of subject tract, thence North 0 degrees 48 minutes 30 seconds West a distance of 330.0 feet; thence West parallel to South line of Section 5, a distance of 165 feet, thence South a distance of 330.0 feet, thence East along South line of Section 5 a distance of 165.0 feet to the true point of beginning;

**EXCEPT that part deeded in Book 1360 at Page 65, described as follows:**

Beginning at the Southeast corner of the Southeast 1/4 of the Southwest 1/4 of Section 5, Township 15, Range 23, Johnson County, Kansas; thence North 0 degrees 23 minutes 38 seconds West, along the East line of the Southeast 1/4 of the Southwest 1/4, 1334.74 feet to the Northeast corner; thence South 89 degrees 18 minutes 26 seconds West along the North line of the Southeast 1/4 of the Southwest 1/4, 325.35 feet; thence South 0 degrees 26 minutes 18 seconds East, 1335.39 feet to a point on the South line of the Southeast 1/4 of the Southwest 1/4 of Section 5, thence North 89 degrees 11 minutes 30 seconds East, along the South line of the Southeast 1/4 of the Southwest 1/4, 324.32 feet to the point of beginning.

**EXCEPT that part deeded in Book 1481 at Page 348, described as follows:**

The West 3/4 of the Southeast 1/4 of the Southwest 1/4 of Section 5, Township 15, Range 23, Johnson County, Kansas, described as follows: Beginning at a point on the South line of the West

3/4 of the Southeast 1/4 of the Southwest 1/4 of Section 5, 324.32 feet West of the Southeast corner thereof; thence South 89 degrees 11 minutes 30 seconds West, along the South line, 972.97 feet; thence North 0 degrees 34 minutes 17 seconds West, along the West line of the West 3/4 of the Southeast 1/4 of the Southwest 1/4 of Section 5, 1337.34 feet; thence North 89 degrees 18 minutes 26 seconds East, along the North line of the Southeast 1/4 of the Southwest 1/4, 976.06 feet; thence South 0 degrees 26 minutes 18 seconds East, along the East line of the West 3/4 of the Southeast 1/4 of the Southwest 1/4 of Section 5, 1335.39 feet to the point of beginning, except any part taken for public roads.

EXCEPT that part deeded in Book 5352 at Page 978, described as follows:

All that part of the Southwest 1/4 of the Southwest 1/4 of Section 5, Township 15, Range 23, in Johnson County, Kansas, being more particularly described as follows: Commencing at the Southwest corner of the Southwest 1/4 of said Section 5; thence North 0 degrees 44 minutes 53 seconds West, along the West line of the Southwest 1/4 of said Section 5, a distance of 643.76 feet, to the true point of beginning; thence continuing North 0 degrees 44 minutes 53 seconds West along the West line of the Southwest 1/4 of said Section 5, a distance of 695.76 feet, to the Northwest corner of the Southwest 1/4 of the Southwest 1/4 of said Section 5; thence North 89 degrees 17 minutes 09 seconds East, along the North line of the Southwest 1/4 of the Southwest 1/4 of said Section 5, a distance of 1301.63 feet, to the Northeast corner thereof; thence South 0 degrees 33 minutes 43 seconds East, along the East line of the Southwest 1/4 of the Southwest 1/4 of said Section 5, a distance of 1337.36 feet, to the Southeast corner thereof; thence South 89 degrees 11 minutes 25 seconds West, along the South line of the Southwest 1/4 of said Section 5, a distance of 324.32 feet; thence North 0 degrees 48 minutes 35 seconds West, along a line perpendicular to the last described course, a distance of 642.95 feet, to a point 26 feet South of the South line of the North 1/2 of the Southwest 1/4 of the Southwest 1/4 of said Section 5; thence South 89 degrees 14 minutes 17 seconds West, along a line 26 feet South of the South line of the North 1/2 of the Southwest 1/4 of the Southwest 1/4 of said Section 5; thence South 89 degrees 14 minutes 17 seconds West, along a line 26 feet South of the South line of the North 1/2 of the Southwest 1/4 of the Southwest 1/4 of said Section 5, a distance of 972.25 feet, to the true point of beginning, Except that part in streets or roads.

EXCEPT that part deeded in Book 5362 at Page 919, described as follows:

All that part of the Southwest 1/4 of Section 5, Township 15, Range 23, in Johnson County, Kansas, being more particularly described as follows: Commencing at the Southwest corner of the Southwest 1/4 of said Section 5; thence North 89 degrees 11 minutes 25 seconds East, along the South line of the Southwest 1/4 of said Section 5, a distance of 807.97 feet; thence North 0 degrees 48 minutes 35 seconds West, along a line perpendicular to the last described course, a distance of 300.00 feet, to the True Point of Beginning; thence continuing North 0 degrees 48 minutes 35 seconds West, a distance of 343.08 feet, to a point 26 feet South of the North line of the South Half

of the Southwest 1/4 of the southwest 1/4 of said Section 5; thence North 89 degrees 14 minutes 17 seconds East along a line 26 feet South of and parallel to the North line of the South Half of the Southwest 1/4 of the Southwest 1/4 of said Section 5, a distance of 165.00 feet; thence South 0 degrees 48 minutes 35 seconds East, along a line perpendicular to the South line of the Southwest 1/4 of Section 5, a distance of 342.95 feet; thence South 89 degrees 11 minutes 25 seconds West, along line parallel to the South line of the Southwest 1/4 of said Section 5, a distance of 165.00 feet, to the true point of beginning, Except that part in streets and roads.

Such land lies upon or touches the city boundary line.

The undersigned further warrant and guarantee that they are the only owners of record of the land. Signed this 7th day of January, 2020.



---

Aaron C. Morris, Owner



---

Aimee S. Morris, Owner



## VOLUNTARY CONSENT ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT is made and entered into this 6<sup>th</sup> day of January, 2020, between the City of Gardner, Kansas, a municipal corporation, (the City) and James C. Coiner and Devra R. Coiner (Property Owner(s)).

### RECITALS

- A. The Property Owner(s) are the owners of record of the following described real property ("Property") located in unincorporated areas of Johnson County, Kansas adjacent to or within a platted subdivision adjacent to the City of Gardner, Kansas.

#### Legal Description:

A tract of land in the Southwest  $\frac{1}{4}$  of Southwest  $\frac{1}{4}$  of Section 5, Township 15, Range 23, Johnson County, Kansas, more particularly described as follows: Beginning at the Southeast corner of the Southwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of Section 5, thence South 89 degrees-11' 30" West along the South line of the Southwest  $\frac{1}{4}$  of said Section 5, a distance of 324.32 feet to the true point of beginning of subject tract, thence North 0 degrees- 48' 30" West a distance of 330.0 feet thence West parallel to South line of Section 5 a distance of 165 feet, thence South a distance of 330.0 feet, thence East along South line of Section 5 a distance of 165.0 feet to true point of beginning.

- B. The Owner has evinced an intent that the Property be annexed by the City and has, to that effect, signed a Consent to Annexation, dated January 6, 2020, and will be filed by the City with the Office of Register of deeds for Johnson County, Kansas. (A copy of the executed and filed Consent to Annexation is affixed hereto as Exhibit B).

**NOW, THEREFORE**, in consideration of the mutual promises and obligations contained herein, and in exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

1. **Consent to Annexation.** Property Owner(s) consents to annexation of the Property into the City of Gardner, Kansas. In the event of a default of any of the City's obligations under this Agreement, the Property Owner(s) sole recourse shall be to petition the City for de-annexation.
2. **Property Tax Abatement.** Prior to the Key Development Point, for a period of twenty (20) years, the City agrees to rebate the City's portion of the Property Owner's ad valorem taxes on the Property to the Property Owner(s) in accordance with the City's rebate policy. For purposes of this paragraph the Key Development Point is defined as the earlier of: (1) rezoning of the property to a use other than A (Agriculture), RUR (Rural) or RLD (Residential Low Density); or (2) sale of the property to subsequent property owner who commits the use of the property to a use other than the present agricultural or residential

low density use. City also agrees that Property Owner shall not be required to make other payments for City services that Property Owner does not use.

3. **Extension of City Services.** The parties agree that the Property is currently adequately served by existing utilities. Accordingly, public Infrastructure will not be improved until such time when the Governing Body shall determine that such improvements are necessary, prudent and feasible for the betterment of the City. Nothing in this agreement shall require the Governing Body to approve or establish any benefit district for the financing of public infrastructure except where required by Law.
4. **Zoning.** The Property is currently zoned Rural (RUR) by the County. A copy of the County zoning regulations application to the RUR zoning district at the time of annexation are attached hereto as Exhibit C. Pursuant to Kansas law, following annexation, the Property shall retain its County zoning until such time that a rezoning of the property may be approved. Similarly, again pursuant to Kansas law, any legal, non-conforming uses existing on the Property immediately preceding annexation may continue until such time as any such use loses its legal, non-conforming use status under the laws of this State.
5. **Acceptance of Annexation.** The annexation will not become effective until after the City Council formally approves and adopts the necessary Annexation Ordinance as required by Kansas Statutes and said ordinance is published once in the official City paper of record.
6. **Savings Clause.** In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, nor shall such invalidity, illegality or unenforceability affect the validity, legality or enforceability of the remainder of the Agreement. Furthermore, the parties agree that such invalid, illegal or unenforceable provision may be reformed to the greatest extent permitted by law to most closely meet the intent of the parties in effecting the purpose expressed by the contractual provision deemed invalid, illegal or unenforceable.
7. This document shall constitute the entire Agreement between the undersigned landowner(s) and the City of Gardner, Kansas.

Now, therefore, in consideration of the City of Gardner's agreeing to the above conditions for the above described property, the undersigned does give full and complete consent to the City of Gardner to annex the above described property in accordance with the laws of the state of Kansas at any time after the date of this agreement.

This agreement shall run with the land described and shall be binding upon the heirs, grantees successors and assigns of the undersigned.

ADOPTED BY THE CITY COUNCIL AND SIGNED BY THE MAYOR OF GARDNER, KANSAS ON THE \_\_\_\_\_  
DAY OF \_\_\_\_\_, 20\_\_\_\_.

CITY OF GARDNER, KANSAS

BY: \_\_\_\_\_

Steve Shute, Mayor

ATTEST:

\_\_\_\_\_  
Sharon Rose, City Clerk

Approved as to form:

\_\_\_\_\_  
Ryan Denk, City Attorney

In Witness thereof, the undersigned have caused this agreement to be executed on \_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_.

Owners of Record:

By: \_\_\_\_\_

James C. Coiner

By: \_\_\_\_\_

Devra R. Coiner

State of Kansas

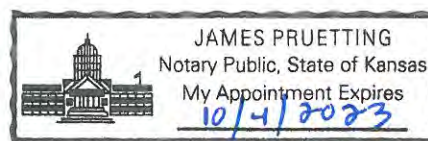
County of Johnson

The foregoing instrument was acknowledged before me this 6<sup>th</sup> day of January,  
2020 by James & Devra Coiner, who is (are) personally known to me to be the same  
person(s) who executed the within foregoing instrument and acknowledged to me that she executed  
the same as her free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS THEREOF, I have hereunto set my hand and official seal and the day and year last  
above written.

\_\_\_\_\_  
Notary Public

Seal





NOTICE: This deed created no estate the effect of which should be explained by an attorney and his aid solicited in its preparation.

FILED BY  
CHICAGO TITLE INS. CO.  
OLATHE, KANSAS

907362

Form 514 Kansas City Title Div. CTI Co.

# Kansas Warranty Deed

(Creating Joint Tenancy)

This Indenture, Made this 22nd day of March A.D. One Thousand

Nine Hundred and Seventy-two by and between

RALPH COINER AND VELMA E. COINER, husband and wife,

of Johnson County, in the State of Kansas, of the first part and

JAMES C. COINER AND DEVRA R. COINER, husband and wife,

of Johnson County, in the State of Kansas, of the second part,

WITNESSETH: THAT SAID PART IES OF THE FIRST PART, in consideration of the sum of One Dollar and Other Valuable Considerations - - - - - the receipt of which is hereby acknowledged, do by these presents, Grant, Bargain, Sell and Convey unto the said parties of the second part, AS JOINT TENANTS AND NOT AS TENANTS IN COMMON, all the following described real estate, situated in the County of Johnson and State of Kansas, to-wit:

A tract of land in the Southwest 1/4 of Southwest 1/4 of Section 5, Township 15, Range 23, Johnson County, Kansas, more particularly described as follows: Beginning at the Southeast corner of the Southwest 1/4 of the Southwest 1/4 of Section 5, thence South 89 degrees-11' 30" West along the South line of the Southwest 1/4 of said Section 5, a distance of 324.32 feet to the true point of beginning of subject tract, thence North 0 degrees-48' 30" West a distance of 330.0 feet thence West parallel to South line of Section 5 a distance of 165 feet, thence South a distance of 330.0 feet, thence East along South line of Section 5 a distance of 165.0 feet to true point of beginning.

Entered in Transfer Record

23rd Day of March 1972

DONALD J. CURRY

Notary Johnson County

TO HAVE AND TO HOLD THE SAME, Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining, forever. And said Ralph Coiner and Velma E. Coiner, husband and wife, for themselves, their heirs, executors or administrators, do hereby covenant, promise and agree to and with said parties of the second part, that at the delivery of these presents they are lawfully seized in their own right of an absolute and indefeasible estate of inheritance, in fee simple, of and in all and singular the above granted and described premises, with the appurtenances, that the same are free, clear, discharged and unincumbered of and from all former and other grants, titles, charges, estates, judgments, taxes, assessments and incumbrances, of what nature or kind soever:

and that they will warrant and forever defend the same unto the said parties of the second part IN JOINT TENANCY AS AFORESAID and unto their assigns and the heirs and assigns of the survivor of them, against said parties of the first part, their heirs, and all and every person or persons whomsoever, lawfully claiming or to claim the same.

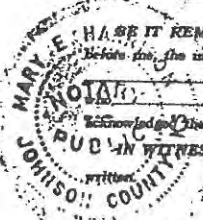
IN WITNESS WHEREOF, The said parties of the first part have hereunto set their hand the day and year first above written.

Ralph Coiner  
RALPH COINER

Velma E. Coiner  
VELMA E. COINER

KANSAS ACKNOWLEDGMENT

STATE OF Kansas  
County of Johnson



HAVE IT REMEMBERED, That on this 22<sup>nd</sup> day of March A. D. 1972

Before me, the undersigned, a Notary Public in and for said County and State, came  
Ralph Coiner and Velma E. Coiner, husband and wife,

personally known to me to be the same person who executed the within instrument of writing, and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above

written  
My commission expires June 6 1974  
Mrs. Mary E. Harrison  
Mary E. Harrison



STATE OF KANSAS }  
COUNTY OF JOHNSON } SS  
FILED FOR RECORD

1972 MAR 23 PM 3 16 A

Marguerite M. Brenner  
MARGUERITE M. BRENNER  
REGISTER OF DEEDS

BY 4.0 DEP

Exhibit B

CONSENT FOR ANNEXATION

(Adjoining property by request)

To: The Governing Body of the City of Gardner, Kansas.

The undersigned owners of record of the following described land hereby petition the Governing Body of the City of Gardner, Kansas to annex such land to the city. The land to be annexed is described as follows:


A tract of land in the Southwest  $\frac{1}{4}$  of Southwest  $\frac{1}{4}$  of Section 5, Township 15, Range 23, Johnson County, Kansas, more particularly described as follows: Beginning at the Southeast corner of the Southwest  $\frac{1}{4}$  of the Southwest  $\frac{1}{4}$  of Section 5, thence South 89 degrees-11' 30" West along the South line of the Southwest  $\frac{1}{4}$  of said Section 5, a distance of 324.32 feet to the true point of beginning of subject tract, thence North 0 degrees-48' 30" West a distance of 330.0 feet thence West parallel to South line of Section 5 a distance of 165 feet, thence South a distance of 330.0 feet, thence East along South line of Section 5 a distance of 165.0 feet to true point of beginning.

Such land lies upon or touches the city boundary line.

The undersigned further warrant and guarantee that they are the only owners of record of the land. Signed this 6<sup>th</sup> day of January, 2020.



James C. Coiner, Owner



Devra R. Coiner, Owner

## VOLUNTARY CONSENT ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT is made and entered into this 6<sup>th</sup> day of January, 2020, between the City of Gardner, Kansas, a municipal corporation, (the City) and James C. Coiner and Devra R. Coiner (Property Owner(s)).

### RECITALS

- A. The Property Owner(s) are the owners of record of the following described real property ("Property") located in unincorporated areas of Johnson County, Kansas adjacent to or within a platted subdivision adjacent to the City of Gardner, Kansas.

#### Legal Description:

All that part of the SW1/4 of Section 5, Township 15, Range 23, in Johnson County, Kansas, being more particularly described as follows: Commencing at the Southwest corner of the SW1/4 of said Section 5; thence N 89 11'25" E, along the South line of the SW1/4 of said Section 5, a distance of 807.97 feet; thence N 0 48'35" W, along a line perpendicular to the last described course, a distance of 300.00 feet, to the True Point of Beginning; thence continuing N 0 48'35" W, a distance of 343.08 feet, to a point 26 feet South of the North Line of the South Half of the SW1/4 of the SW1/4 of said Section 5; thence N 89 14'17"E, along a line 26 feet South of and parallel to the North line of the South Half of the SW1/4 of the SW1/4 of said Section 5, a distance of 165.00 feet; thence S 0 48'35" E, along a line perpendicular to the South line of the SW1/4 of Section 5, a distance of 342.95 feet; thence S 89 11'25" W, along a line parallel to the south line of the SW1/4 of said Section 5, a distance of 165.00 feet, to the true point of beginning containing 1.299 Acres, more or less.

- B. The Owner has evinced an intent that the Property be annexed by the City and has, to that effect, signed a Consent to Annexation, dated January 6, 2020, and will be filed by the City with the Office of Register of deeds for Johnson County, Kansas. (A copy of the executed and filed Consent to Annexation is affixed hereto as Exhibit B).

**NOW, THEREFORE**, in consideration of the mutual promises and obligations contained herein, and in exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

1. **Consent to Annexation.** Property Owner(s) consents to annexation of the Property into the City of Gardner, Kansas. In the event of a default of any of the City's obligations under this Agreement, the Property Owner(s) sole recourse shall be to petition the City for de-annexation.



2. **Property Tax Abatement.** Prior to the Key Development Point, for a period of twenty (20) years, the City agrees to rebate the City's portion of the Property Owner's ad valorem taxes on the Property to the Property Owner(s) in accordance with the City's rebate policy. For purposes of this paragraph the Key Development Point is defined as the earlier of: (1) rezoning of the property to a use other than A (Agriculture), RUR (Rural) or RLD (Residential Low Density); or (2) sale of the property to subsequent property owner who commits the use of the property to a use other than the present agricultural or residential low density use. City also agrees that Property Owner shall not be required to make other payments for City services that Property Owner does not use.
3. **Extension of City Services.** The parties agree that the Property is currently adequately served by existing utilities. Accordingly, public Infrastructure will not be improved until such time when the Governing Body shall determine that such improvements are necessary, prudent and feasible for the betterment of the City. Nothing in this agreement shall require the Governing Body to approve or establish any benefit district for the financing of public infrastructure except where required by Law.
4. **Zoning.** The Property is currently zoned Rural (RUR) by the County. A copy of the County zoning regulations application to the RUR zoning district at the time of annexation are attached hereto as Exhibit C. Pursuant to Kansas law, following annexation, the Property shall retain its County zoning until such time that a rezoning of the property may be approved. Similarly, again pursuant to Kansas law, any legal, non-conforming uses existing on the Property immediately preceding annexation may continue until such time as any such use loses its legal, non-conforming use status under the laws of this State.
5. **Acceptance of Annexation.** The annexation will not become effective until after the City Council formally approves and adopts the necessary Annexation Ordinance as required by Kansas Statutes and said ordinance is published once in the official City paper of record.
6. **Savings Clause.** In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, nor shall such invalidity, illegality or unenforceability affect the validity, legality or enforceability of the remainder of the Agreement. Furthermore, the parties agree that such invalid, illegal or unenforceable provision may be reformed to the greatest extent permitted by law to most closely meet the intent of the parties in effecting the purpose expressed by the contractual provision deemed invalid, illegal or unenforceable.
7. This document shall constitute the entire Agreement between the undersigned landowner(s) and the City of Gardner, Kansas.

Now, therefore, in consideration of the City of Gardner's agreeing to the above conditions for the above described property, the undersigned does give full and complete consent to the City of Gardner to annex the above described property in accordance with the laws of the state of Kansas at any time after the date of this agreement.

This agreement shall run with the land described and shall be binding upon the heirs, grantees successors and assigns of the undersigned.

ADOPTED BY THE CITY COUNCIL AND SIGNED BY THE MAYOR OF GARDNER, KANSAS ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

CITY OF GARDNER, KANSAS

BY: \_\_\_\_\_  
Steve Shute, Mayor

ATTEST:

\_\_\_\_\_  
Sharon Rose, City Clerk

Approved as to form:

\_\_\_\_\_  
Ryan Denk, City Attorney

In Witness thereof, the undersigned have caused this agreement to be executed on \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Owners of Record:

By: \_\_\_\_\_  
James C. Coiner

By: \_\_\_\_\_  
Devra R. Coiner

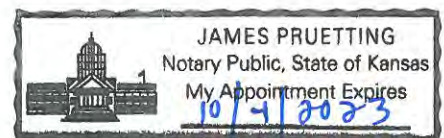
State of Kansas  
County of Johnson

The foregoing instrument was acknowledged before me this 6th day of January, 2020 by James & Devra Coiner, who is (are) personally known to me to be the same person(s) who executed the within foregoing instrument and acknowledged to me that she executed the same as her free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS THEREOF, I have hereunto set my hand and official seal and the day and year last above written.

\_\_\_\_\_  
Notary Public

Seal



12/12 19 97

Date 11-6 19 97

**Kansas Warranty Deed**

L. Baker, County Clerk

2771648

JOINT TENANCY

Souley L. Baker, County Clerk

Johnson County, Kansas

**This Indenture**

Made this 6th day of November

A. B. One Thousand

Nine Hundred ninety-seven husband and wife

by and between Ralph L. Coiner and Velma Coiner,

Wise known as Velma L. Coiner

of Johnson

County, in the State of

Kansas

of the first part, and

James C. Coiner and Devra R. Coiner, husband and wife,

of Johnson

County, in the State of

Kansas

of the second part,

WITNESSETH: THAT SAID PARTIES OF THE FIRST PART, in consideration of the sum

of one dollar and other valuable consideration of ----- DOLLARS,

the receipt of which is hereby acknowledged, do by these presents, Grant, Bargain, Sell and Convey unto

the said parties of the second part, and the survivor of them, as joint tenants, and not as tenants in common, all

the following described real estate, situated in the County of Johnson

and State of Kansas, to-wit:

All that part of the SW1/4 of Section 5, Township 15, Range 23, in Johnson County, Kansas, being more particularly described as follows: Commencing at the Southwest corner of the SW1/4 of said Section 5; thence N 89 11'25" E, along the South line of the SW1/4 of said Section 5, a distance of 807.97 feet; thence N 0 48'35" W, along a line perpendicular to the last described course, a distance of 300.00 feet, to the True Point of Beginning; thence continuing N 0 48'35" W, a distance of 343.08 feet, to a point 26 feet South of the North Line of the South Half of the SW1/4 of the SW1/4 of said Section 5; thence N 89 14'17"E, along a line 26 feet South of and parallel to the North line of the South Half of the SW1/4 of the SW1/4 of said Section 5, a distance of 165.00 feet; thence S 0 48'35" E, along a line perpendicular to the South line of the SW1/4 of Section 5, a distance of 342.95 feet; thence S 89 11'25" W, along a line parallel to the south line of the SW1/4 of said Section 5, a distance of 165.00 feet, to the true point of beginning containing 1.299 Acres, more or less.

Transfer made solely as a gift.

Read being replied to correct grantor's name.

TO HAVE AND TO HOLD THE SAME, Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining, forever. And said

heirs, executors or administrators, do hereby covenant, promise and agree to and with said parties of the second part, that at the delivery of these presents lawfully seized in own right of an absolute and indefeasible estate of inheritance, in fee simple, of and in all and singular the above granted and described premises, with the appurtenances, that the same are free, clear, discharged and unincumbered of and from all former and other grants, titles, charges, estates, judgments, taxes, assessments and incumbrances of what nature or kind soever:

and that will warrant and forever defend the same unto the said parties of the second part, their assigns, and the heirs and assigns of the survivor of them, against said parties of the first part, heirs, and all and every person or persons whomsoever, lawfully claiming or to claim the same.

IN WITNESS WHEREOF, The said parties of the first part have hereunto set their hand the day and year first above written.

STATE OF KANSAS  
COUNTY OF JOHNSON ]ss  
FILED FOR RECORD

EX 4

1997 NOV -6 P 11:25.8

SARA F. ULLMANN  
REGISTER OF DEEDS

Ralph L. Coiner

Velma Coiner

RALPH L. COINER

VELMA COINER



## KANSAS ACKNOWLEDGEMENT

STATE OF KansasCounty of Johnson } ss.

BE IT REMEMBERED, That on this sixth day of November A.D., 19 97  
 before me, the undersigned, a Notary Public in and for said County and State, came Ralph D. Morris

who is personally known to me to be the same person who executed the within instrument of writing, and  
 duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last  
 above written.

My appointment expires October 31 19 98



## KANSAS ACKNOWLEDGEMENT

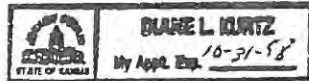
STATE OF KansasCounty of Johnson } ss.

BE IT REMEMBERED, That on this sixth day of November A.D., 19 97  
 before me, the undersigned, a Notary Public in and for said County and State, came Helma Currier

who personally known to me to be the same person who executed the within instrument of writing, and  
 duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last  
 above written.

My appointment expires October 31 19 98



## Warranty Deed

FROM

TO

Entered in Transfer Record in my  
 office this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_

County Clerk

STATE OF KANSAS,

County, } ss.

Received for Record on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_, at \_\_\_\_\_ o'clock  
 M., and duly Recorded in Book \_\_\_\_\_ of \_\_\_\_\_ at Page \_\_\_\_\_

Register of Deeds,

Fee, \$ \_\_\_\_\_

5397-843

5362 PAGE 620

Velma E. Coiner AKA Velma Coiner  
Velma E. Coiner Velma Coiner

SARA F. ULLICH  
REGISTER OF DEEDS

Printed signature if using impression seal.

Exhibit B

## CONSENT FOR ANNEXATION

(Adjoining property by request)

To: The Governing Body of the City of Gardner, Kansas.

The undersigned owners of record of the following described land hereby petition the Governing Body of the City of Gardner, Kansas to annex such land to the city. The land to be annexed is described as follows:

All that part of the SW1/4 of Section 5, Township 15, Range 23, in Johnson County, Kansas, being more particularly described as follows: Commencing at the Southwest corner of the SW1/4 of said Section 5; thence N 89 11'25" E, along the South line of the SW1/4 of said Section 5, a distance of 807.97 feet; thence N 0 48'35" W, along a line perpendicular to the last described course, a distance of 300.00 feet, to the True Point of Beginning; thence continuing N 0 48'35" W, a distance of 343.08 feet, to a point 26 feet South of the North Line of the South Half of the SW1/4 of the SW1/4 of said Section 5; thence N 89 14'17"E, along a line 26 feet South of and parallel to the North line of the South Half of the SW1/4 of the SW1/4 of said Section 5, a distance of 165.00 feet; thence S 0 48'35" E, along a line perpendicular to the South line of the SW1/4 of Section 5, a distance of 342.95 feet; thence S 89 11'25" W, along a line parallel to the south line of the SW1/4 of said Section 5, a distance of 165.00 feet, to the true point of beginning containing 1.299 Acres, more or less.

Such land lies upon or touches the city boundary line.

The undersigned further warrant and guarantee that they are the only owners of record of the land. Signed this \_\_\_\_ day of January, 2020.



James C. Coiner, Owner



Devra R. Coiner, Owner

## VOLUNTARY CONSENT ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT is made and entered into this 10 day of January, 2020, between the City of Gardner, Kansas, a municipal corporation, (the City) and Thomas S VanKeirsbilck Trust (Property Owner(s)).

### RECITALS

- A. The Property Owner(s) are the owners of record of the following described real property ("Property") located in unincorporated areas of Johnson County, Kansas adjacent to or within a platted subdivision adjacent to the City of Gardner, Kansas.

Legal Description:

T & K Farms Lot 2 containing 10.48 acres more or less Book 121 Page 15(see attachment)

- B. The Owner has evinced an intent that the Property be annexed by the City and has, to that effect, signed a Consent to Annexation, dated 1/10/20, 2020, and will be filed by the City with the Office of Register of deeds for Johnson County, Kansas. (A copy of the executed and filed Consent to Annexation is affixed hereto as Exhibit B).

**NOW, THEREFORE**, in consideration of the mutual promises and obligations contained herein, and in exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

1. **Consent to Annexation.** Property Owner(s) consents to annexation of the Property into the City of Gardner, Kansas. In the event of a default of any of the City's obligations under this Agreement, the Property Owner(s) sole recourse shall be to petition the City for de-annexation.
2. **Property Tax Abatement.** Prior to the Key Development Point, for a period not to exceed twenty (20) years, the City agrees to rebate the City's portion of the Property Owner's ad valorem taxes on the Property to the Property Owner(s) in accordance with the City's rebate policy. For purposes of this paragraph the Key Development Point is defined as the earlier of: (1) rezoning of the property to a use other than A (Agriculture), RUR (Rural) or RLD (Residential Low Density); or (2) sale of the property to subsequent property owner who commits the use of the property to a use other than the present agricultural or residential low density use. City also agrees that Property Owner shall not be required to make other payments for City services that Property Owner does not use.

3. **Extension of City Services.** The parties agree that the Property is currently adequately served by existing utilities. Accordingly, public Infrastructure will not be improved until such time when the Governing Body shall determine that such improvements are necessary, prudent and feasible for the betterment of the City. Nothing in this agreement shall require the Governing Body to approve or establish any benefit district for the financing of public infrastructure except where required by Law.
4. **Zoning.** The Property is currently zoned Rural (RUR) by the County. A copy of the County zoning regulations application to the RUR zoning district at the time of annexation are attached hereto as Exhibit C. Pursuant to Kansas law, following annexation, the Property shall retain its County zoning until such time that a rezoning of the property may be approved. Similarly, again pursuant to Kansas law, any legal, non-conforming uses existing on the Property immediately preceding annexation may continue until such time as any such use loses its legal, non-conforming use status under the laws of this State.
5. **Acceptance of Annexation.** The annexation will not become effective until after the City Council formally approves and adopts the necessary Annexation Ordinance as required by Kansas Statutes and said ordinance is published once in the official City newspaper.
6. **Savings Clause.** In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, nor shall such invalidity, illegality or unenforceability affect the validity, legality or enforceability of the remainder of the Agreement. Furthermore, the parties agree that such invalid, illegal or unenforceable provision may be reformed to the greatest extent permitted by law to most closely meet the intent of the parties in effecting the purpose expressed by the contractual provision deemed invalid, illegal or unenforceable.
7. This document shall constitute the entire Agreement between the undersigned landowner(s) and the City of Gardner, Kansas.

Now, therefore, in consideration of the City of Gardner's agreeing to the above conditions for the above described property, the undersigned does give full and complete consent to the City of Gardner to annex the above described property in accordance with the laws of the state of Kansas at any time after the date of this agreement.

This agreement shall run with the land described and shall be binding upon the heirs, grantees successors and assigns of the undersigned.

ADOPTED BY THE CITY COUNCIL AND SIGNED BY THE MAYOR OF GARDNER, KANSAS ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

CITY OF GARDNER, KANSAS

Exhibit B

CONSENT FOR ANNEXATION

(Adjoining property by request)

To: The Governing Body of the City of Gardner, Kansas.

The undersigned owners of record of the following described land hereby petition the Governing Body of the City of Gardner, Kansas to annex such land to the city. The

Final Platt of: T & K Farms Lot 2 containing 10.48 acres more or less Book 121 Page 15 (see attachment)

And the following private road easement

Such land lies upon or touches the city boundary line.

The undersigned further warrant and guarantee that they are the only owners of record of the land. Signed this 10 day of January, 2020.



---

Thomas S VanKeirsbilck, Trust  
25950 W. 199<sup>th</sup> Street  
Gardner, Kansas 66030

JO CO KS BK:201701 PG:003917  
20170117-0003917 1/17/2017  
Pages: 2 F: \$32.00 1:55 PM  
Register of Deeds T20170002768

*Exemption 79-1437(e)(a)(B)*

**CORRECTION**  
**KANSAS QUIT-CLAIM DEED**

THIS DEED, made this 5<sup>th</sup> day of January, 2017, between KELLY K. VANKEIRSBILCK, a single person ("Grantor"), and THOMAS S. VANKEIRSBILCK, Trustee of the Thomas S. VanKeirsbilck Trust Agreement dated February 14, 2001, as may be amended ("Grantee"), whose mailing address is 25950 West 199<sup>th</sup> Street, Gardner, Kansas 66030.

The Deed is being executed for the purpose of correcting the name of the Grantee in the Quit Claim Deed executed by Grantor and recorded with the Register of Deeds of Johnson County, Kansas in Book 201611 at Page 002939.

WITNESSETH, THAT GRANTOR, in consideration of the sum of One and No/100 Dollars (\$1.00) and Other Good and Valuable Consideration, to her duly paid, by these presents does Convey and Quitclaim unto Grantee, his successors and assigns, forever, all of Grantor's interest in the real property situated in the County of Johnson and State of Kansas, described as follows:

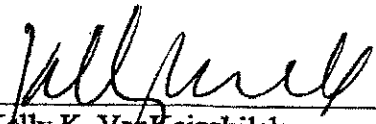


Lot 2, T & K FARMS, a subdivision in City of Gardner, Johnson  
County, Kansas, commonly known as 25950 West 199<sup>th</sup> Street,  
Gardner, Kansas 66030

with appurtenances, and all the estate, title, and interest of Grantor therein.

TO HAVE AND TO HOLD, all and singular, the above described premises, together  
with the appurtenances, unto Grantee, his successors and assigns, forever.

IN WITNESS WHEREOF, Grantor has caused this Deed to be duly executed on its  
behalf the date first shown above.

  
\_\_\_\_\_  
Kelly K. VanKeirsbilck

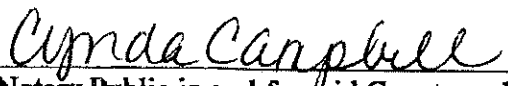
STATE OF Kansas )  
COUNTY OF Johnson ) ss.

This instrument was acknowledged before me, a notary public, on January 10<sup>th</sup>, 2017  
by **Kelly K. VanKeirsbilck**, a single person.

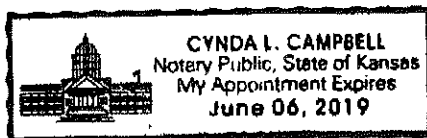
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the  
date written above.

My Commission Expires:

10-6-19  
[SEAL]

  
\_\_\_\_\_  
Notary Public in and for said County and  
State

Print Name: Cynda Campbell





BY: \_\_\_\_\_  
Steve Shute, Mayor

ATTEST:

\_\_\_\_\_  
Sharon Rose, City Clerk

Approved as to form:

\_\_\_\_\_  
Ryan Denk, City Attorney

In Witness thereof, the undersigned have caused this agreement to be executed on \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Owners of Record:

By: TS VR TTEE

State of Kansas,

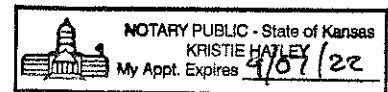
County of Johnson,

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of January, 2020 by Tom S. Vankeirsbilck, who is (are) personally known to me to be the same person(s) who executed the within foregoing instrument and acknowledged to me that he/she executed the same as a free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS THEREOF, I have hereunto set my hand and official seal and the day and year last above written.

Kristie Hatley  
Notary Public

Seal

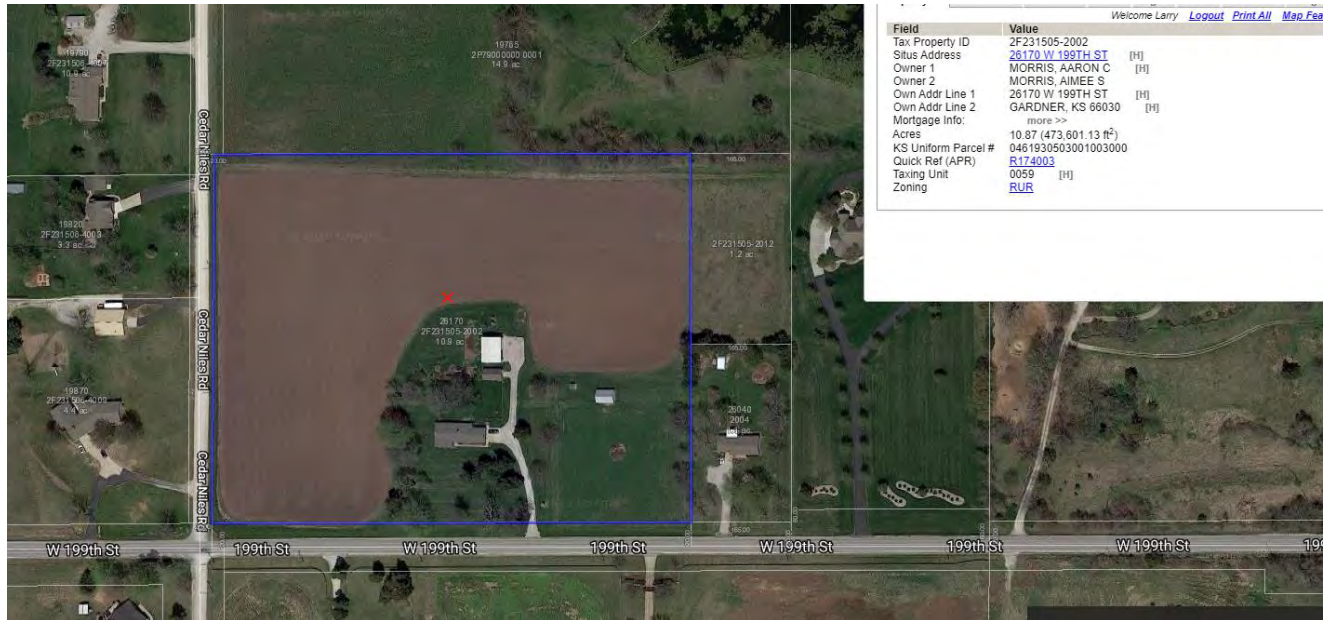


26040 W. 199<sup>th</sup> Street Gardner KS 66030

Property		Location	School	Map	Legal	Docs	Images	Map Fe
<b>Field</b>	<b>Value</b>							
Tax Property ID	2F231505-2012							
Situs Address	Not Available							
Owner 1	COINER, JAMES C. [H]							
Owner 2	COINER, DEVRA R. [H]							
Own Addr Line 1	26040 W 199TH ST [H]							
Own Addr Line 2	GARDNER, KS 66030 [H]							
Mortgage Info:	more >>							
Appraisal Info:	<a href="#">L \$10 320 + I \$0 = T \$10 320</a> [H]							
Tax Bill Info:	<a href="#">Click Here</a>							
Acres	1.19 (51,650.42 ft <sup>2</sup> )							
Year Built	0							
Class	<a href="#">V</a>							
LBCS Function	9910 - Residential highest and best use more >> [H]							
Neighborhood Code	804.1 [H]							
KS Uniform Parcel #	0461930503001003020							
Quick Ref (APR)	<a href="#">R174010</a>							
Taxing Unit	0059 [H]							
Zoning	<a href="#">RUR</a>							

Aaron C and Aimee S. Morris Property

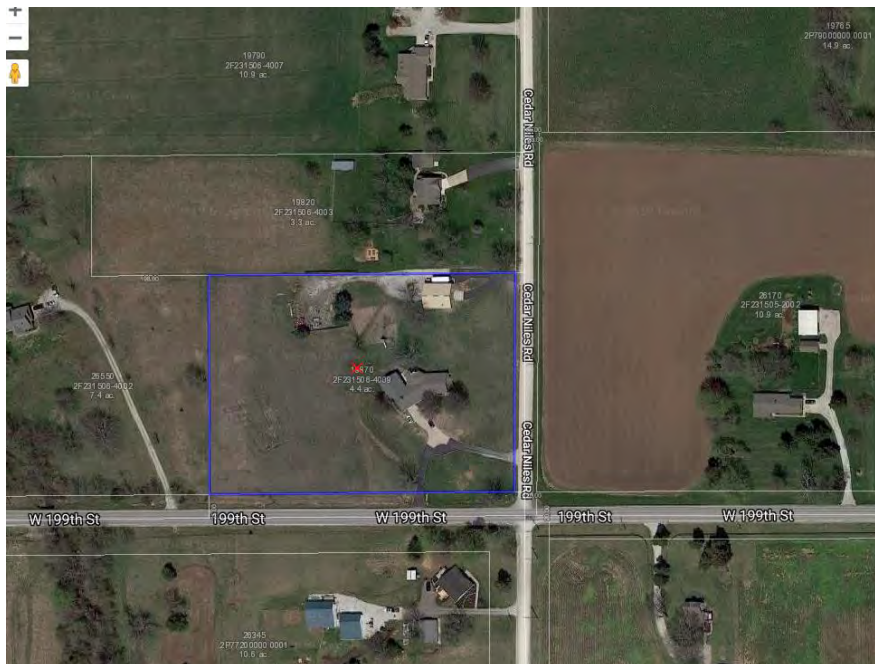
Also know as 26170 W 199<sup>th</sup> street. Gardner KS 66030





Adam S. and Lauren M. Taylor Owners

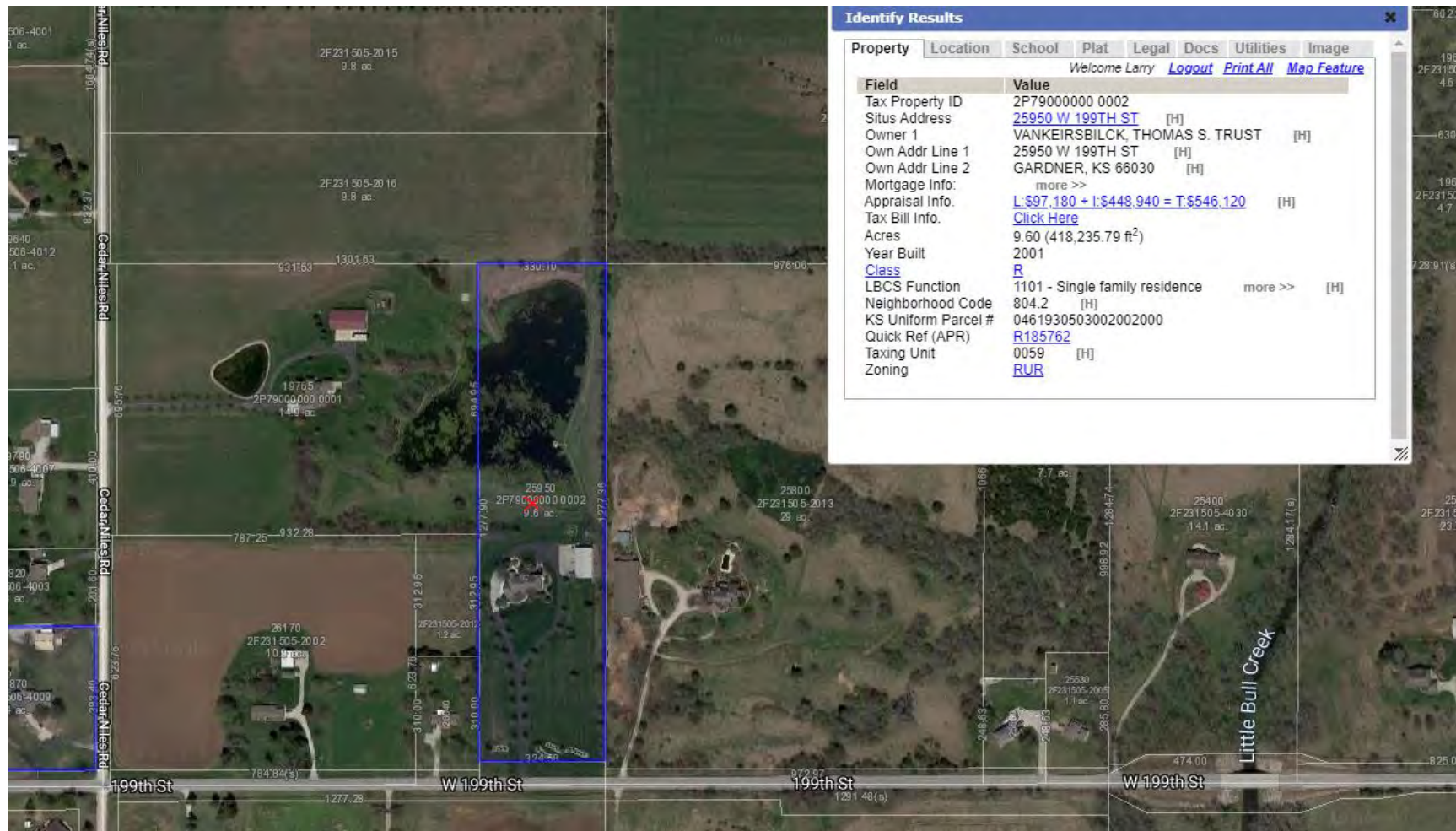
19870 S. Cedar Niles Road Gardner Kansas 66030



**Property** Location School Plat Legal Docs Utilities Image

Welcome Larry [Logout](#) [Print All](#) [Map Feature](#)

Field	Value
Tax Property ID	2F231506-4009
Situs Address	<a href="#">19870 CEDAR NILES RD</a> [H]
Owner 1	TAYLOR, ADAM S [H]
Owner 2	TAYLOR, LAUREN M [H]
Own Addr Line 1	19870 CEDAR NILES RD [H]
Own Addr Line 2	GARDNER, KS 66030 [H]
Mortgage Info:	more >>
Appraisal Info:	<a href="#">L \$556,650 - L \$435,950 = T \$492,810</a> [H]
Tax Bill Info:	<a href="#">Click Here</a>
Acres	4.37 (190,247.84 ft <sup>2</sup> )
Year Built	1975
Class	R
LCSC Function	1101 - Single family residence more >> [H]
Neighborhood Code	804.1 [H]
KS Uniform Parcel #	0461930604001009000
Quick Ref (APR)	<a href="#">R174055</a>
Taxing Unit	0059 [H]
Zoning	<a href="#">RUR</a>



Thomas S VanKeirsbilck Trust Owner 2590 W 199<sup>th</sup> street Gardner Kansas. 66030



## COUNCIL ACTION FORM

## NEW BUSINESS ITEM NO. 4

**MEETING DATE:** JANUARY 21, 2020

**STAFF CONTACT:** LARRY POWELL, BUSINESS & ECO DEV DIRECTOR

---

**Agenda Item:** Consider accepting a voluntary annexation with landowner consent

**Strategic Priority:** Promote Economic Development

**Department:** Business and Economic Development

---

### **Staff Recommendation:**

Staff recommends the City Council adopt an ordinance for a voluntary annexation of a parcel of land as described below, annexing that part known as 27000 W 199<sup>th</sup> Street - the property.

### **Background/Description of Item:**

A request to voluntarily annex an unplatted tract was received by the City, signed by Susan J Lowe, Owner. The property adjoins land already in the City of Gardner and therefore can be annexed upon receipt of a voluntary annexation request from the property owners.

The attached Voluntary Consent Annexation Agreement outlines the terms agreed upon by the City and the property owner as conditions for this consent annexation. The terms are consistent with the direction of the governing body regarding annexation of rural properties in the City's planning and growth area. Consent annexations are not subject to resolution, notice, public hearing, and extension of services plan requirements that may apply to other annexations.

#### **Legal Description:**

The West 427.06 feet of the South 1,020 feet of the Southeast ¼ of Section 6, Township 15, Range 23 East, in Johnson County, Kansas, except that part thereof in streets or roads (Exhibit A).

### **Financial Impact:**

City will experience normal growth in its utilities structure as the subdivision is constructed.

### **Attachments included:**

- Voluntary Consent Annexation Agreement
- Owner Affidavit
- Map of Tract
- Ordinance No. 2647

### **Suggested Motion:**

Accept the Voluntary Consent Annexation request of Susan J Lowe and adopt Ordinance No. 2647, an ordinance annexing land to the City of Gardner, Kansas.

## VOLUNTARY CONSENT ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT is made and entered into this 10th day of January, 2020, between the City of Gardner, Kansas, a municipal corporation, (the City) and Susan J. Lowe, Trustee of the Susan J. Lowe Revocable Trust (Property Owner).

### RECITALS

- A. The Property Owner(s) are the owners of record of the following described real property ("Property") located in unincorporated areas of Johnson County, Kansas adjacent to or within a platted subdivision adjacent to the City of Gardner, Kansas.

#### Legal Description:

The West 427.06 feet of the South 1,020 feet of the Southeast  $\frac{1}{4}$  of Section 6, Township 15, Range 23 East, in Johnson County, Kansas, except that part thereof in streets or roads (Exhibit A).

- B. The Owner has evinced an intent that the Property be annexed by the City and has, to that effect, signed a Consent to Annexation, dated January 10, 2020, and will be filed by the City with the Office of Register of deeds for Johnson County, Kansas. (A copy of the executed and filed Consent to Annexation is affixed hereto as Exhibit B).

**NOW, THEREFORE**, in consideration of the mutual promises and obligations contained herein, and in exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties agree as follows:

1. **Consent to Annexation.** Property Owner(s) consents to annexation of the Property into the City of Gardner, Kansas. In the event of a default of any of the City's obligations under this Agreement, the Property Owner(s) sole recourse shall be to petition the City for de-annexation.
2. **Property Tax Abatement.** Prior to the Key Development Point, for a period not to exceed twenty (20) years, the City agrees to rebate the City's portion of the Property Owner's ad valorem taxes on the Property to the Property Owner(s) in accordance with the City's rebate policy. For purposes of this paragraph the Key Development Point is defined as the earlier of: (1) rezoning of the property to a use other than A (Agriculture), RUR (Rural) or RLD (Residential Low Density); or (2) sale of the property to subsequent property owner who commits the use of the property to a use other than the present agricultural or residential low density use. City also agrees that Property Owner shall not be required to make other payments for City services that Property Owner does not use.

3. **Extension of City Services.** The parties agree that the Property is currently adequately served by existing utilities. Accordingly, public Infrastructure will not be improved until such time when the Governing Body shall determine that such improvements are necessary, prudent and feasible for the betterment of the City. Nothing in this agreement shall require the Governing Body to approve or establish any benefit district for the financing of public infrastructure except where required by Law.
  - a. The parties agree that the Property owners will not be required to connect to the city's current or a future sewer system as long as they have a functional septic tank or sanitary system serving the property.
4. **Zoning.** The Property is currently zoned Rural (RUR) by the County. A copy of the County zoning regulations application to the RUR zoning district at the time of annexation are attached hereto as Exhibit C. Pursuant to Kansas law, following annexation, the Property shall retain its County zoning until such time that a rezoning of the property may be approved. Similarly, again pursuant to Kansas law, any legal, non-conforming uses existing on the Property immediately preceding annexation may continue until such time as any such use loses its legal, non-conforming use status under the laws of this State.
5. **Acceptance of Annexation.** The annexation will not become effective until after the City Council formally approves and adopts the necessary Annexation Ordinance as required by Kansas Statutes and said ordinance is published once in the official City newspaper.
6. **Savings Clause.** In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, nor shall such invalidity, illegality or unenforceability affect the validity, legality or enforceability of the remainder of the Agreement. Furthermore, the parties agree that such invalid, illegal or unenforceable provision may be reformed to the greatest extent permitted by law to most closely meet the intent of the parties in effecting the purpose expressed by the contractual provision deemed invalid, illegal or unenforceable.
7. This document shall constitute the entire Agreement between the undersigned landowner(s) and the City of Gardner, Kansas.

Now, therefore, in consideration of the City of Gardner's agreeing to the above conditions for the above described property, the undersigned does give full and complete consent to the City of Gardner to annex the above described property in accordance with the laws of the state of Kansas at any time after the date of this agreement.

This agreement shall run with the land described and shall be binding upon the heirs, grantees successors and assigns of the undersigned.

ADOPTED BY THE CITY COUNCIL AND SIGNED BY THE MAYOR OF GARDNER, KANSAS ON THE \_\_\_\_\_  
DAY OF \_\_\_\_\_, 20\_\_\_\_.

CITY OF GARDNER, KANSAS

BY: \_\_\_\_\_  
Steve Shute, Mayor

ATTEST:

\_\_\_\_\_  
Sharon Rose, City Clerk

Approved as to form:

\_\_\_\_\_  
Ryan Denk, City Attorney

In Witness thereof, the undersigned have caused this agreement to be executed on \_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_.

Owners of Record:

By: Susan J. Lowe, Trustee  
Susan J. Lowe, Trustee of the Susan J. Lowe Revocable Trust

State of Kansas

County of Johnson

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of January,  
2020 by Susan Lowe, who is (are) personally known to me to be the same  
person(s) who executed the within foregoing instrument and acknowledged to me that she executed  
the same as her free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS THEREOF, I have hereunto set my hand and official seal and the day and year last  
above written.

\_\_\_\_\_  
Notary Public

Seal

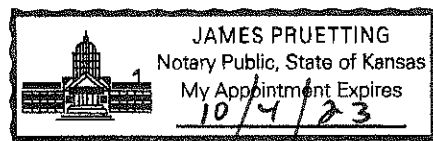
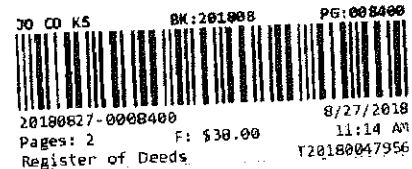


EXHIBIT A



**KANSAS WARRANTY DEED**

Grantor: SUSAN J. LOWE, a single person

Grantee: Susan J. Lowe Revocable Trust under Agreement dated March 1, 2000

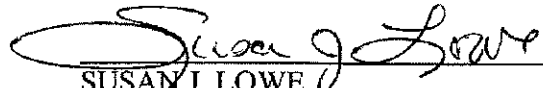
Grantee's mailing address: 27000 West 199<sup>th</sup> Street  
Gardner, KS 66030

In consideration of One Dollar (\$1.00), the receipt of which is hereby acknowledged, the Grantor GRANTS, BARGAINS, SELLS, CONVEYS AND WARRANTS to Grantee, the following described premises, to wit:

The West 427.06 feet of the South 1,020 feet of the Southeast ¼ of Section 6,  
Township 15 South, Range 23 East, Johnson County, Kansas, except that part  
thereof in streets or roads.

Subject to all easements, restrictions, reservations and covenants, if any, now of record.

The Grantor hereby covenanting that the Grantor, her successors and assigns, will WARRANT AND DEFEND the title to the premises unto the Grantee, its successors and assigns, against the lawful claims of all persons whomsoever, excepting however the general taxes for the current calendar year and thereafter, and the special taxes becoming a lien after the date of this deed.

  
SUSAN J. LOWE

Exemption No. 7: This instrument is exempt from the requirement of a Real Estate Sales Validation Questionnaire by virtue of K.S.A. 79-1437e(a)(7).

STATE OF KANSAS            )  
                                      ) ss:  
COUNTY OF JOHNSON        )

Before me, the undersigned, a Notary Public, within and for said County and State on this 27 day of August, 2018, personally appeared SUSAN J. LOWE, a single person, to me personally known to be the person who executed the within foregoing instrument and acknowledged to me that she executed the same as her free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal and the day and year last above written.

Christopher Bacon  
Notary Public

My Commission Expires:  
1-19-20



Exhibit B

## CONSENT FOR ANNEXATION

(Adjoining property by request)

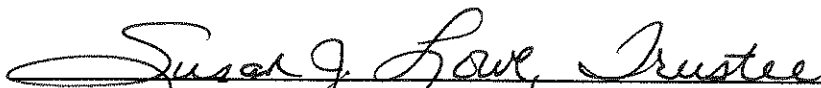
To: The Governing Body of the City of Gardner, Kansas.

The undersigned owners of record of the following described land hereby petition the Governing Body of the City of Gardner, Kansas to annex such land to the city. The land to be annexed is described as follows:

The West 427.06 feet of the South 1,020 feet of the Southeast  $\frac{1}{4}$  of Section 6, Township 15, Range 23 East, in Johnson County, Kansas, except that part thereof in streets or roads (Exhibit A).

Such land lies upon or touches the city boundary line.

The undersigned further warrant and guarantee that they are the only owners of record of the land. Signed this 10<sup>th</sup> day of January, 2020.

  
Susan J. Lowe, Trustee of the Susan J. Lowe Revocable Trust, Owner



Susan J Lowe Property marked in Blue Outline.

27000 W 199<sup>th</sup> Street

The image shows an aerial map of a residential area. A property is highlighted with a blue rectangular outline. An 'Identify Results' window is open, displaying the following information:

Field	Value
Tax Property ID	2F231506-4004
Situs Address	<a href="#">27000 W 199TH ST</a> [H]
Owner 1	SUSAN J LOWE REVOCABLE TRUST [H]
Own Addr Line 1	27000 W 199TH ST [H]
Own Addr Line 2	GARDNER, KS 66030 [H]
Mortgage Info:	<a href="#">more &gt;&gt;</a>
Appraisal Info:	<a href="#">L \$104,290 + I \$315,780 = T \$420,070</a> [H]
Tax Bill Info:	<a href="#">Click Here</a>
Acres	9.72 (423,248.51 ft <sup>2</sup> )
Year Built	1972
Class	<a href="#">R</a>
LBCS Function	1101 - Single family residence <a href="#">more &gt;&gt;</a> [H]
Neighborhood Code	804.2 [H]
KS Uniform Parcel #	0461930604001002000
Quick Ref (APR)	<a href="#">R174050</a>
Taxing Unit	0059 [H]
Zoning	<a href="#">RN1</a>

The map shows several other properties with their respective IDs and acreages. The street names 'V 199th St' and 'W 199th St' are visible at the bottom. The Windows taskbar at the bottom indicates the time is 2:31 PM on 1/10/2020.

**ORDINANCE NO. 2647**

AN ORDINANCE ANNEXING LAND TO THE CITY OF GARDNER, KANSAS.

WHEREAS, the following described land is located in Johnson County, Kansas;

WHEREAS, a written petition and/or consent for annexation of the following described land, signed by all of the owners thereof, have been filed with the City of Gardner, Kansas pursuant to K.S.A. 12-520(a)(7), as amended; and

WHEREAS, the governing body of the City of Gardner, Kansas, finds it advisable to annex such land.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GARDNER, KANSAS:

Section 1. That the following described land is hereby annexed and made a part of the City of Gardner, Kansas:

The West 427.06 feet of the South 1,020 feet of the Southeast  $\frac{1}{4}$  of Section 6, Township 15, Range 23 East, in Johnson County, Kansas, including the entirety of the width of the public right of way immediately south of the annexed land known as 199<sup>th</sup> Street.

Section 2. That this ordinance shall be effective from and after its passage, approval and publication in the official city newspaper.

{The remainder of this page left intentionally blank}

PASSED AND APPROVED by the Governing Body of the City of Gardner, Kansas this  
21st day of January, 2020.

---

Steve Shute, Mayor

ATTEST:

---

Sharon Rose, City Clerk

APPROVED AS TO FORM:

---

Ryan B. Denk, City Attorney

## COUNCIL ACTION FORM

## NEW BUSINESS ITEM NO. 5

**MEETING DATE:** JANUARY 21, 2020

**STAFF CONTACT:** GONZ GARCIA, UTILITIES DIRECTOR

---

**Agenda Item:** Consider adopting an Ordinance to condemn land for the location, laying-out, construction, reconstruction, operation, use, maintenance and repair of a raw water lines and improvements attendant thereto from Hillsdale Lake to the City's Hillsdale Water Treatment Plant located within Miami County, Kansas, and directing the City Attorney to institute eminent domain proceedings as provided by law to acquire the tracts and parcels of land as described

**Strategic Priority:** Promotes Economic Development  
Fiscal Stewardship  
Increase Infrastructure and Asset Management

**Department:** Utilities - Water

---

### **Staff Recommendation:**

Staff and the City Attorney recommend that the City Council approve an ordinance approving the Description and Survey of Lands necessary for acquisition by condemnation of real property for the easement of the new 24" raw water transmission main as part of the Hillsdale WTP Expansion Project.

### **Background/Description of Item:**

On August 19, 2019, City Council authorized a Design Build Contract with the Joint Venture Group of Burns & McDonnell and CAS Constructors, LLC for a 3.0 MGD expansion at Hillsdale Water Treatment Plant.

As part of the Hillsdale Water Treatment Plant expansion project a new 24" RAW water transmission main must be constructed to provide the water treatment plant with enough effluent water to treat at the proposed improvements. The City retained the services of Burns & McDonnell for the new raw water line easement acquisition support.

Since October, Burns & McDonnell (BMC) has been actively engaging with the property owners along the proposed raw water line alignment. Based on some concerns posed by several property owners, BMC reevaluated the alignment in an attempt to minimize disturbance and impact to private property while still providing the City with adequate room for maintenance and access in the future.

BMC has redistributed revised easement exhibits and offers based on the above changes. To date, many of the property owner discussions are going positively and the revisions have been well received. However, as of today, none of the property owners have signed the easement agreements and we are quickly approaching the easement acquisition deadline of January 24, 2020. The current date for the construction of the new 24" raw water line is March 2020.

Should the parties be unable to reach an agreement, an eminent domain action may be required.

On December 16, 2019, City Council adopted Resolution No. 2046, declaring it necessary to acquire by condemnation real property interest for the city's use and operation of the Hillsdale Water Treatment Plant.

**Financial Impact:**

Unknown at this time.

**Attachments:**

- Ordinance No. 2648
- Exhibit A – Legal Descriptions

**Suggested Motion:**

Adopt Ordinance No. 2648, an ordinance condemning land for the location, laying-out, construction, reconstruction, operation, use, maintenance and repair of a raw water lines and improvements attendant thereto from Hillsdale Lake to the City's Hillsdale Water Treatment Plant located within Miami County, Kansas, and directing the City Attorney to institute eminent domain proceedings as provided by law to acquire the tracts and parcels of land described in this ordinance.

**ORDINANCE NO. 2648**

**AN ORDINANCE** condemning land for the location, laying-out, construction, reconstruction, operation, use, maintenance and repair of a raw water lines and improvements attendant thereto from Hillsdale Lake to the City's Hillsdale Water Treatment Plant located within Miami County, Kansas, and directing the City Attorney to institute eminent domain proceedings as provided by law to acquire the tracts and parcels of land described in this ordinance.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARDNER, KANSAS:**

The following described land is hereby condemned and appropriated to the City of Gardner, Kansas for the location, laying-out, construction, reconstruction, operation, use, maintenance and repair of raw water lines and improvements attendant thereto from Hillsdale Lake to the City's Hillsdale Water Treatment Plant located within Miami County, Kansas, to-wit:

*See Exhibit "A", which is attached hereto and incorporated herein by reference;*

1. It is hereby found that the costs of such project will be paid by the City of Gardner, Kansas.
2. The City Attorney is hereby ordered and directed forthwith to commence proceedings for the acquisition of the above-described property and to do and perform all things which might be necessary and required by law to acquire the aforementioned rights in and to said property.
3. This ordinance shall take effect and be in force after its passage, approval and publication.

**PASSED BY THE CITY COUNCIL OF THE CITY OF GARDNER, KANSAS THIS**  
**\_\_\_ DAY OF \_\_\_\_\_, 2020.**

\_\_\_\_\_  
Steve Shute, Mayor

ATTEST:

\_\_\_\_\_  
Sharon Rose  
City Clerk

APPROVED AS TO FORM:

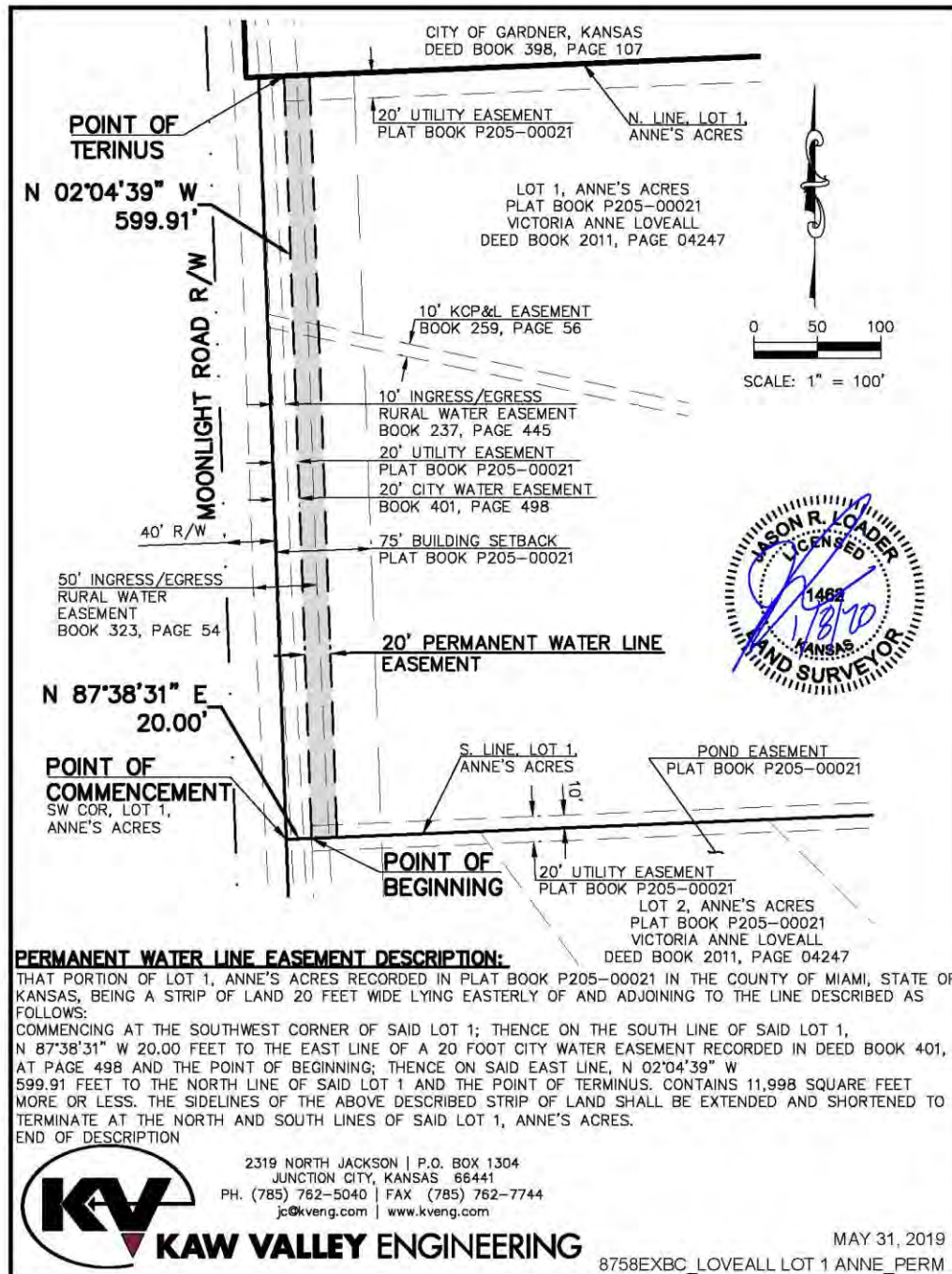
\_\_\_\_\_  
Ryan Denk  
City Attorney

## EXHIBIT A

### Project Tract No. 1

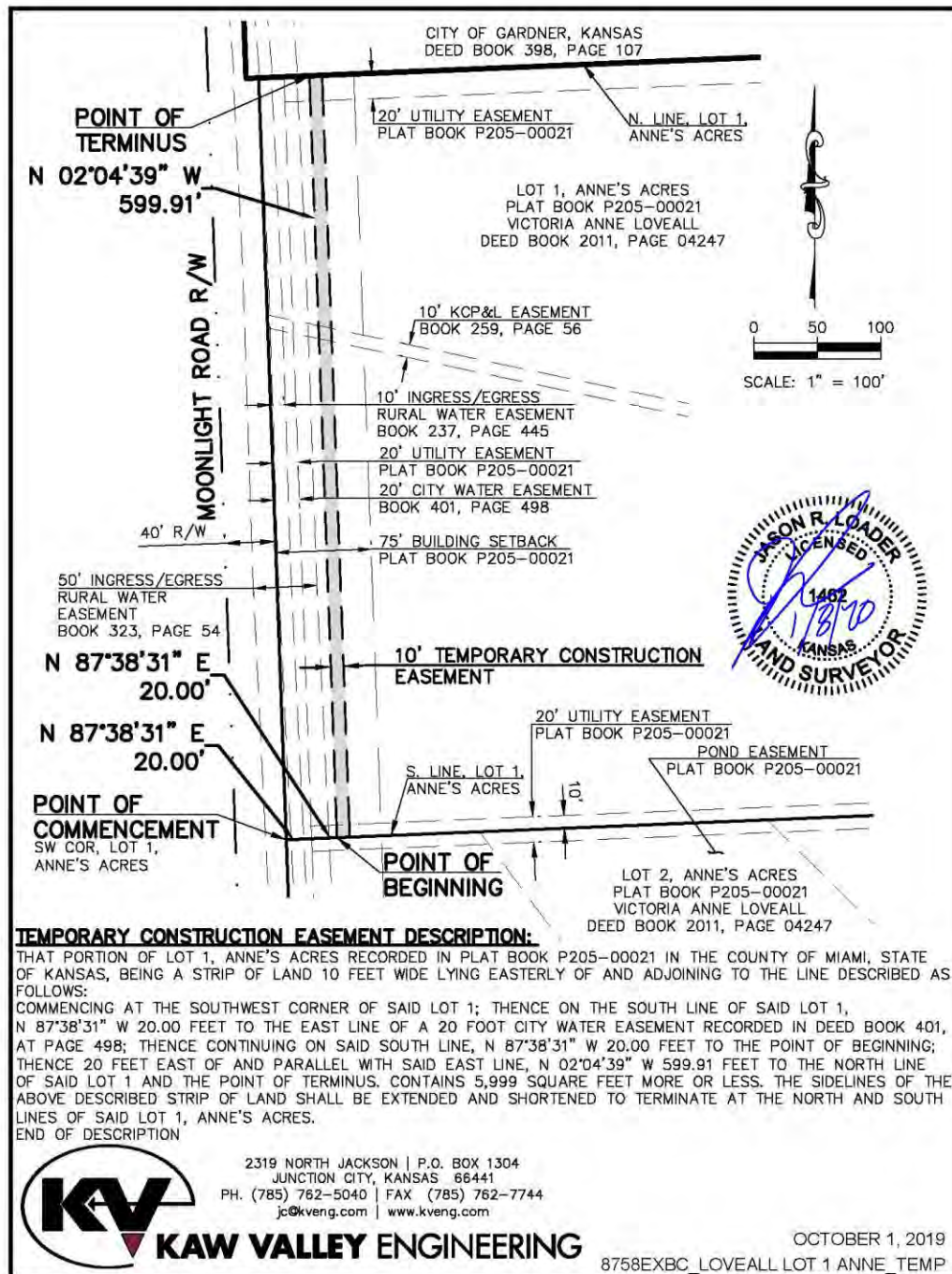
Fee Simple Owner: Victoria Anne Loveall

Legal Description of the Real Property to be acquired for Permanent Easement:





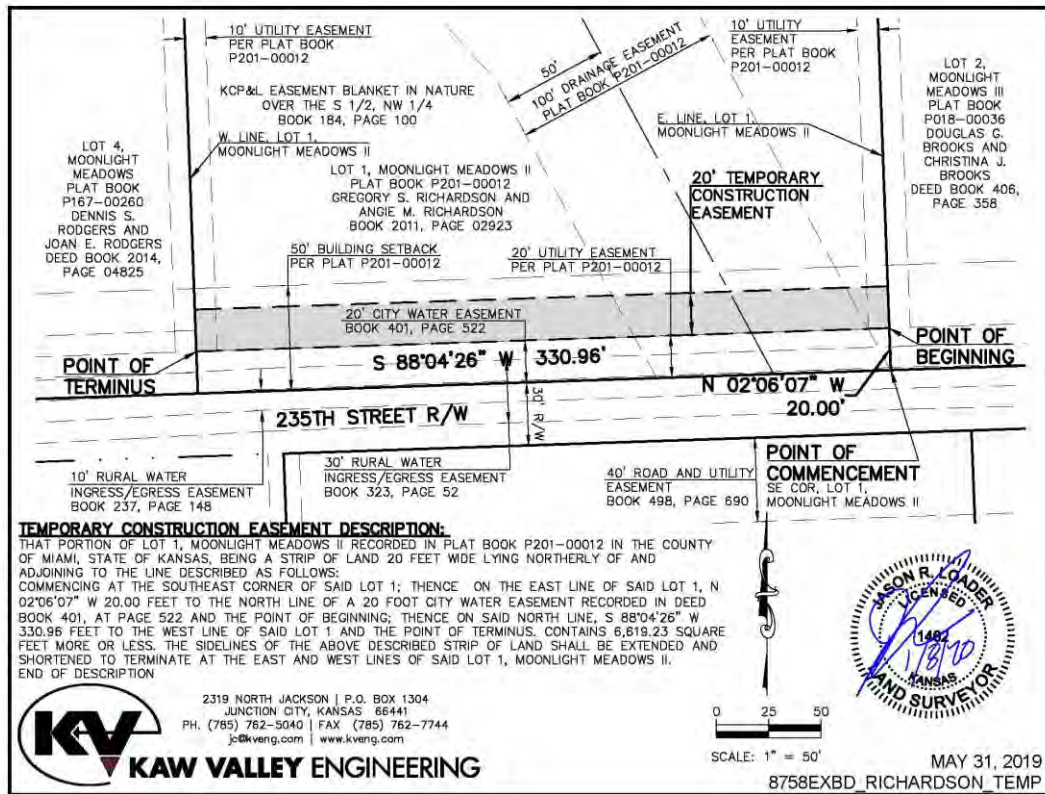
**Legal Description of the Real Property to be acquired for Temporary Construction Easement:**



## Project Tract No. 2

**Fee Simple Owner:** Gregory S. Richardson and Angie M. Richardson

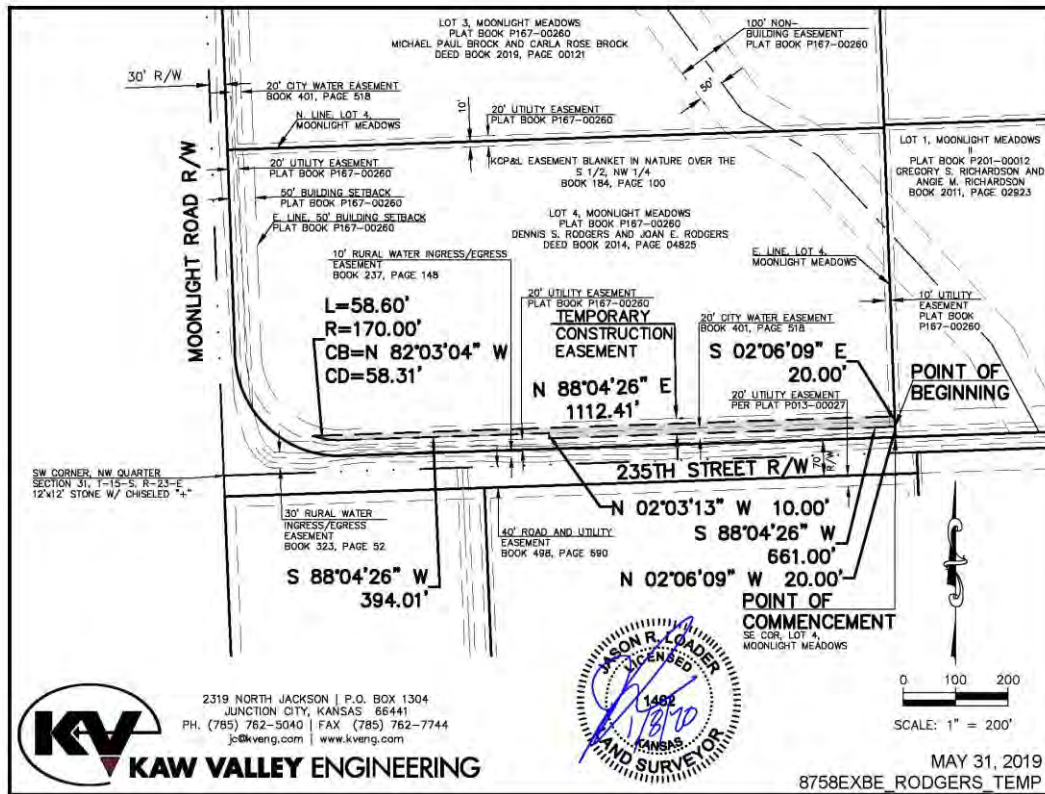
**Legal Description of the Real Property to be acquired for Temporary Construction Easement:**



### Project Tract No. 3

**Fee Simple Owner:** Dennis S. Rodgers and Joan E. Rodgers

### **Legal Description of the Real Property to be acquired for Temporary Construction Easement:**



**TEMPORARY CONSTRUCTION EASEMENT DESCRIPTION:**

THAT PORTION OF LOT 4, MOONLIGHT MEADOWS RECORDED IN PLAT BOOK P167-00260 IN THE COUNTY OF MIAMI, STATE OF KANSAS, BEING DESCRIBED AS FOLLOWS:  
COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 4; THENCE ON THE EAST LINE OF SAID LOT 4, N 02°06'09" W 20.00 TO THE NORTH LINE OF A 20 FOOT UTILITY EASEMENT RECORDED IN PLAT BOOK P167-00260 AND TO THE POINT OF BEGINNING; THENCE ON SAID NORTH LINE S 88°04'26" W 661.00 FEET; THENCE N 02°03'13" W 10.00 FEET; THENCE S 88°04'26" W 394.01 FEET TO A POINT OF CURVATURE; THENCE NORTHWESTERLY ON THE ARC OF A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 170.00 FEET, AN ARC LENGTH OF 58.60 FEET, AND BEING SUBTENDED BY A CHORD WHICH BEARS N 82°03'04" W 58.31 FEET; THENCE N 88°04'26" E 1,112.41 FEET TO SAID EAST LINE; THENCE ON SAID EAST LINE, S 02°06'09" E 20.00 FEET TO THE POINT OF BEGINNING. CONTAINS 17,545.03 SQUARE FEET MORE OR LESS.  
END OF DESCRIPTION



2319 NORTH JACKSON | P.O. BOX 1304  
JUNCTION CITY, KANSAS 66441  
PH. (785) 762-5040 | FAX (785) 762-7744  
jc@kvenq.com | www.kvenq.com

**KAW VALLEY ENGINEERING**

MAY 31, 2019  
8758EXBE RODGERS TEMP

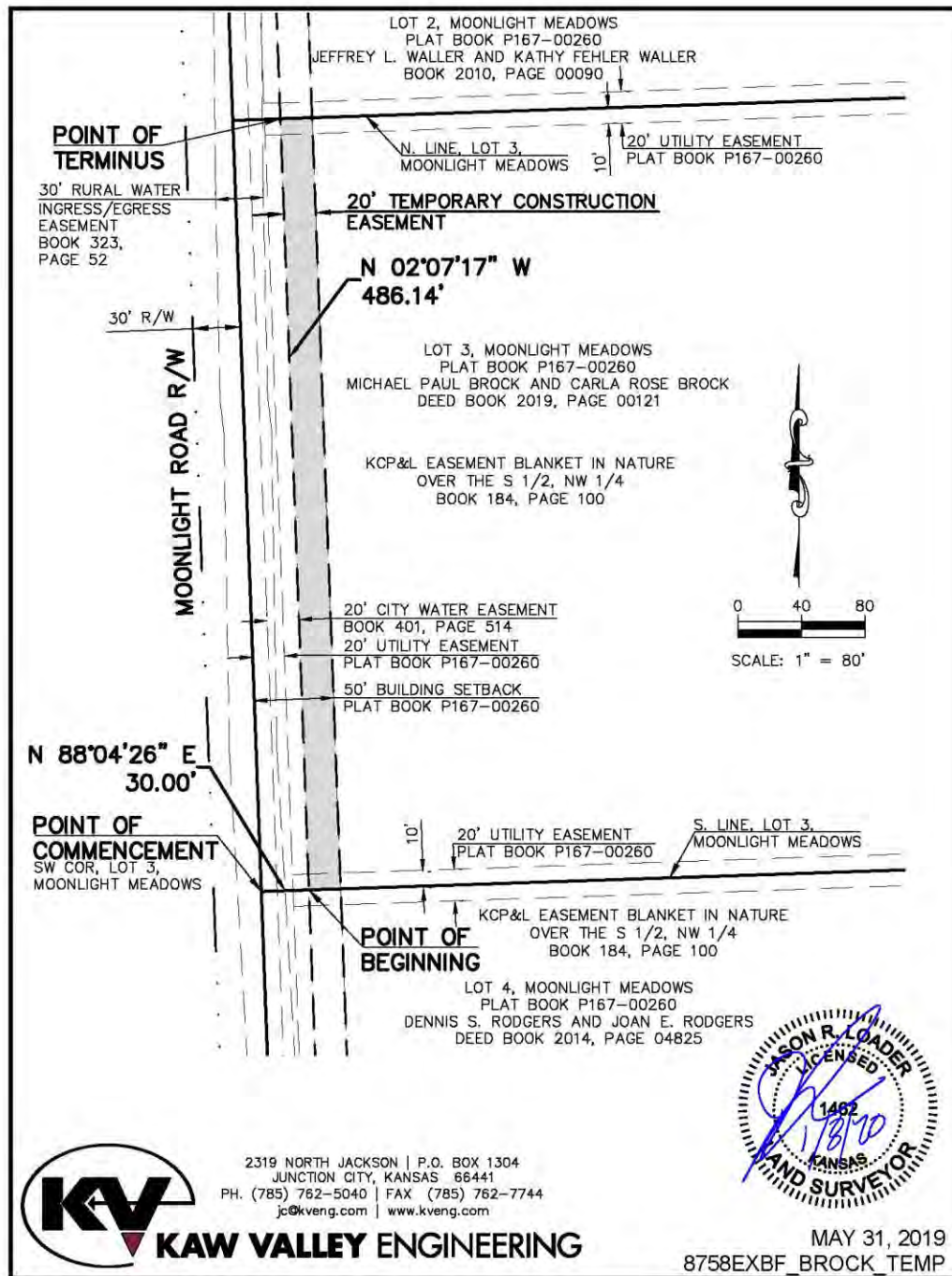
2 OF 2



## Project Tract No. 4

**Fee Simple Owner:** Michael Paul Brock and Carla Rose Brock

**Legal Description of the Real Property to be acquired for Temporary Construction Easement:**



**TEMPORARY CONSTRUCTION EASEMENT DESCRIPTION:**

THAT PORTION OF LOT 3, MOONLIGHT MEADOWS RECORDED IN PLAT BOOK P167-00260 IN THE COUNTY OF MIAMI, STATE OF KANSAS, BEING A STRIP OF LAND 20 FEET WIDE LYING EASTERLY OF AND ADJOINING TO THE LINE DESCRIBED AS FOLLOWS:  
COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 3; THENCE ON THE SOUTH LINE OF SAID LOT 3, N 88°04'26" E 30.00 FEET TO THE EAST LINE OF A 20 FOOT CITY WATER EASEMENT RECORDED IN DEED BOOK 401, AT PAGE 514 AND THE POINT OF BEGINNING; THENCE ON SAID EAST LINE, N 02°07'17" W 486.14 FEET TO THE NORTH LINE OF SAID LOT 3 AND THE POINT OF TERMINUS. CONTAINS 9,22 SQUARE FEET MORE OR LESS. THE SIDELINES OF THE ABOVE DESCRIBED STRIP OF LAND SHALL BE EXTENDED AND SHORTENED TO TERMINATE AT THE NORTH AND SOUTH LINES OF SAID LOT 3, MOONLIGHT MEADOWS.  
END OF DESCRIPTION



2319 NORTH JACKSON | P.O. BOX 1304  
JUNCTION CITY, KANSAS 66441  
PH. (785) 762-5040 | FAX (785) 762-7744  
jc@kveng.com | www.kveng.com

**KAW VALLEY ENGINEERING**

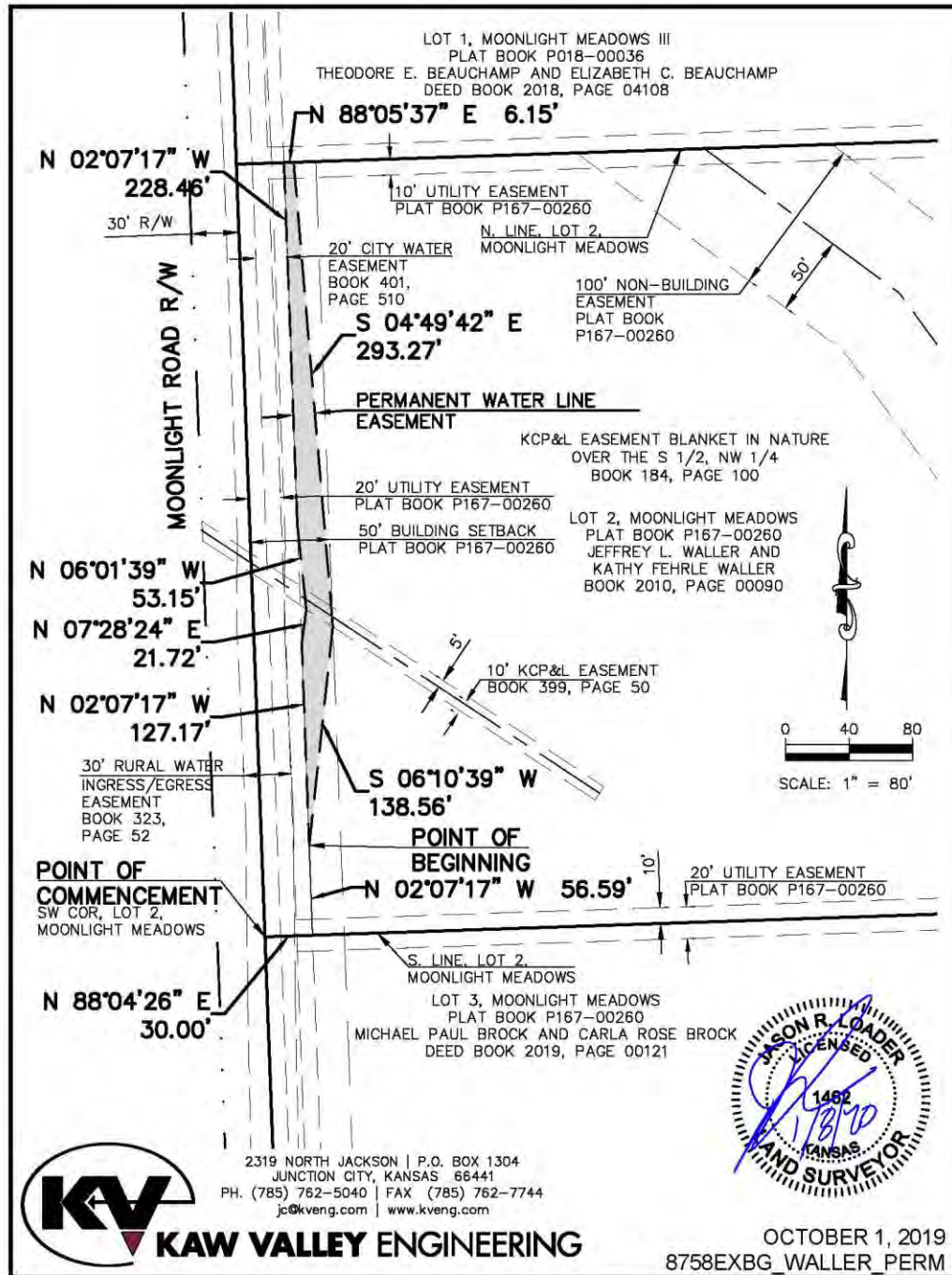
MAY 31, 2019  
8758EXBF\_BROCK\_TEMP

2 OF 2

## Project Tract No. 5

Fee Simple Owner: Jeffrey L. Waller and Kathy Fehrle Waller

Legal Description of the Real Property to be acquired for Permanent Easement:





**PERMANENT WATER LINE EASEMENT DESCRIPTION:**

THAT PORTION OF LOT 2, MOONLIGHT MEADOWS RECORDED IN PLAT BOOK P167-00260 IN THE COUNTY OF MIAMI, STATE OF KANSAS, DESCRIBED AS FOLLOWS:  
COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE ON THE SOUTH LINE OF SAID LOT 2, N 88°04'26" E 30.00 FEET TO THE EAST LINE OF A 20 FOOT CITY WATER EASEMENT RECORDED IN DEED BOOK 401, AT PAGE 510; THENCE ON SAID EAST LINE, N 02°07'17" W 56.59 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ON SAID EAST LINE, N 02°07'17" W 127.17 FEET; THENCE N 07°28'24" E 21.72 FEET; THENCE N 06°01'39" E 53.15 FEET TO THE EAST LINE OF SAID 20 FOOT CITY WATER EASEMENT; THENCE ON SAID EAST LINE, N 02°07'17" W 228.46 FEET TO THE NORTH LINE OF SAID LOT 2; THENCE ON SAID NORTH LINE N 88°05'37" E 6.15 FEET; THENCE S 04°49'42" E 293.27 FEET; THENCE S 06°10'39" W 138.56 FEET TO THE POINT OF BEGINNING. CONTAINS 5066.52 SQUARE FEET MORE OR LESS.  
END OF DESCRIPTION



2319 NORTH JACKSON | P.O. BOX 1304  
JUNCTION CITY, KANSAS 66441  
PH. (785) 762-5040 | FAX (785) 762-7744  
jc@kveng.com | www.kveng.com

**KAW VALLEY ENGINEERING**



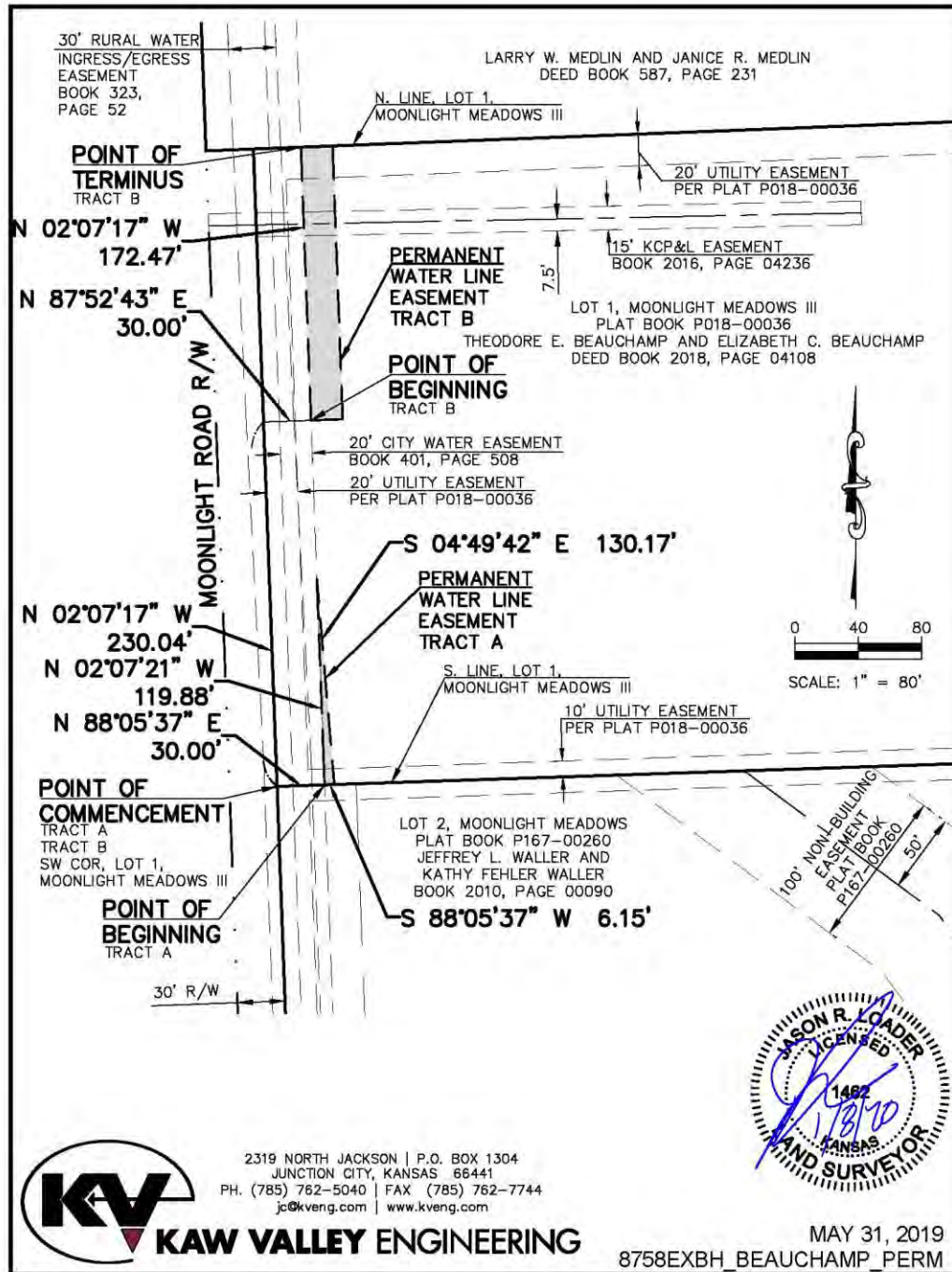
OCTOBER 1, 2019  
8758EXBG\_WALLER\_PERM

2 OF 2

## Project Tract No. 6

**Fee Simple Owner:** Theodore E. Beauchamp and Elizabeth C. Beauchamp

## **Legal Description of the Real Property to be acquired for Permanent Easement**



**PERMANENT WATER LINE EASEMENT TRACT A DESCRIPTION:**

THAT PORTION OF LOT 1, MOONLIGHT MEADOWS III RECORDED IN PLAT BOOK P018-04236 IN THE COUNTY OF MIAMI, STATE OF KANSAS, DESCRIBED AS FOLLOWS:  
COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 1; THENCE ON THE SOUTH LINE OF SAID LOT 1, N 88°05'37" W 30.00 FEET TO THE EAST LINE OF A 20 FOOT CITY WATER EASEMENT RECORDED IN DEED BOOK 401, AT PAGE 508 AND THE POINT OF BEGINNING; THENCE ON SAID EAST LINE, N 02°07'17" W 119.88 FEET; THENCE S 04°49'42" E 130.17 FEET TO SAID SOUTH LINE OF LOT 1; THENCE ON SAID SOUTH LINE S 88°05'37" W 6.15 FEET TO THE POINT OF BEGINNING. CONTAINS 399 SQUARE FEET MORE OR LESS.  
END OF DESCRIPTION

**PERMANENT WATER LINE EASEMENT TRACT B DESCRIPTION:**

THAT PORTION OF LOT 1, MOONLIGHT MEADOWS III RECORDED IN PLAT BOOK P018-04236 IN THE COUNTY OF MIAMI, STATE OF KANSAS, BEING A STRIP OF LAND 20 FEET WIDE LYING EASTERLY OF AND ADJOINING TO THE LINE DESCRIBED AS FOLLOWS:  
COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 1; THENCE ON THE WEST LINE OF SAID LOT 1, N 02°07'17" W 230.04 FEET; THENCE N 87°52'43" E 30.00 FEET TO THE EAST LINE OF A 20 FOOT CITY WATER EASEMENT RECORDED IN DEED BOOK 401, AT PAGE 508 AND THE POINT OF BEGINNING; THENCE ON SAID EAST LINE, N 02°07'17" W 172.47 FEET TO THE NORTH LINE OF SAID LOT 1 AND TO THE POINT OF TERMINUS. CONTAINS 2,476.53 SQUARE FEET MORE OR LESS. THE SIDELINES OF THE ABOVE DESCRIBED STRIP OF LAND SHALL BE EXTENDED AND SHORTENED TO TERMINATE AT THE NORTH LINE OF SAID LOT 1, MOONLIGHT MEADOWS III.  
END OF DESCRIPTION



2319 NORTH JACKSON | P.O. BOX 1304  
JUNCTION CITY, KANSAS 66441  
PH. (785) 762-5040 | FAX (785) 762-7744  
jc@kveng.com | www.kveng.com

**KAW VALLEY ENGINEERING**



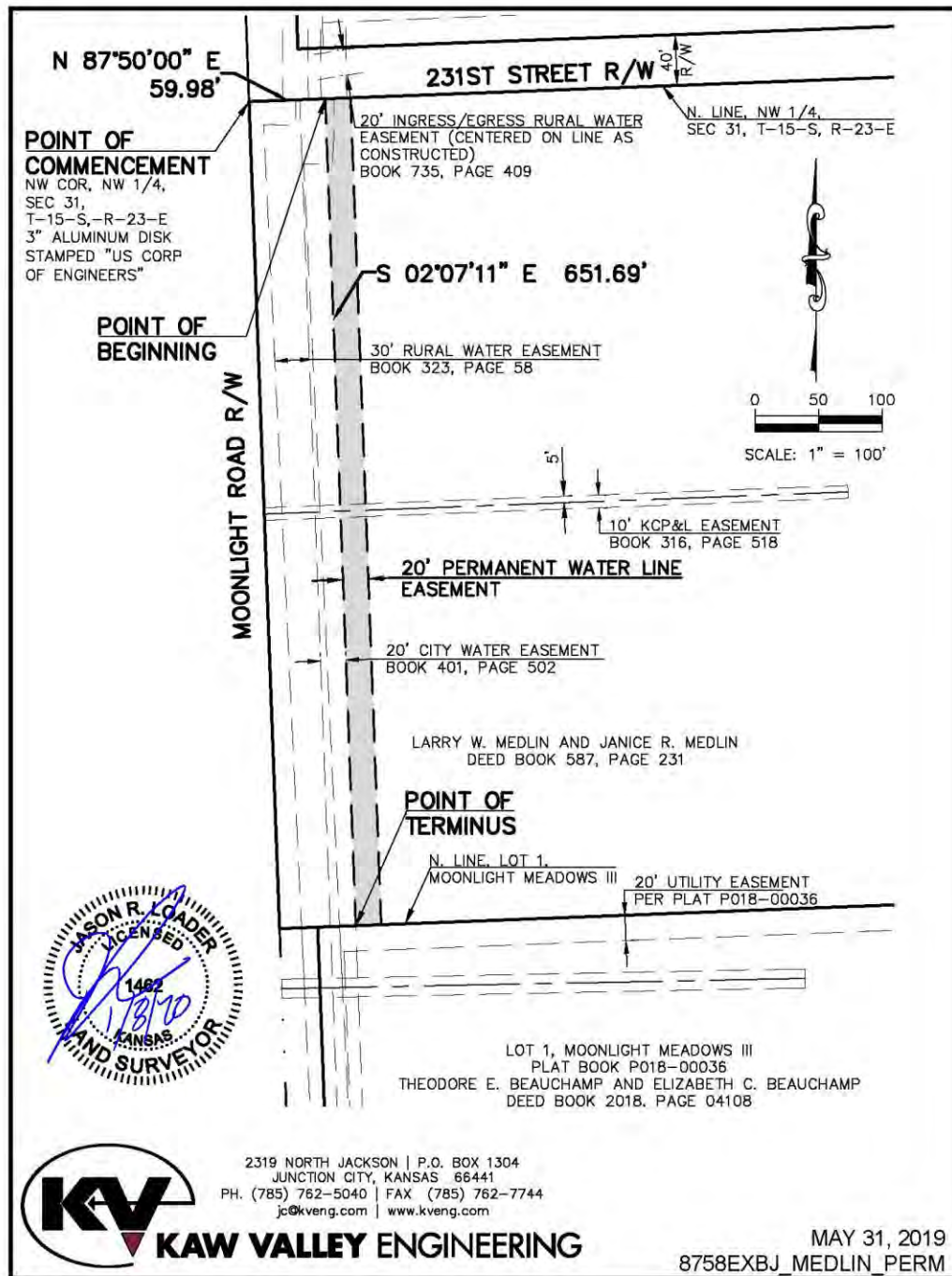
MAY 31, 2019  
8758EXBH\_BEAUCHAMP\_PERM

2 OF 2

**Project Tract No. 7**

**Fee Simple Owner:** Larry W. Medlin and Janice R. Medlin

**Legal Description of the Real Property to be acquired for Permanent Easement**





**PERMANENT WATER LINE EASEMENT DESCRIPTION:**

THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 15 SOUTH, RANGE 23 EAST OF THE 6TH PRINCIPAL MERIDIAN IN THE COUNTY OF MIAMI, STATE OF KANSAS, BEING A STRIP OF LAND 20 FEET WIDE LYING EAST OF AND ADJOINING TO THE LINE DESCRIBED AS FOLLOWS:  
COMMENCING AT THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER; THENCE ON THE NORTH LINE OF SAID NORTHWEST QUARTER, N 87°50'00" E 59.98 FEET TO THE EAST LINE OF A 20 FOOT CITY WATER EASEMENT RECORDED IN DEED BOOK 401, AT PAGE 502, AND THE POINT OF BEGINNING; THENCE ON SAID EAST LINE, S 02°07'11" E 651.69 FEET TO THE NORTH LINE OF LOT 1, MOONLIGHT MEADOWS III RECORDED IN PLAT BOOK P018-00036 AND THE POINT OF TERMINUS. CONTAINS 13,034 SQUARE FEET MORE OR LESS. THE SIDELINES OF THE ABOVE DESCRIBED STRIP OF LAND SHALL BE EXTENDED AND SHORTENED TO TERMINATE AT THE NORTH LINE OF SAID NORTHWEST QUARTER AND NORTH LINE OF SAID LOT 1, MOONLIGHT MEADOWS III.  
END OF DESCRIPTION



2319 NORTH JACKSON | P.O. BOX 1304  
JUNCTION CITY, KANSAS 66441  
PH. (785) 762-5040 | FAX (785) 762-7744  
jc@kveng.com | www.kveng.com

**KAW VALLEY ENGINEERING**

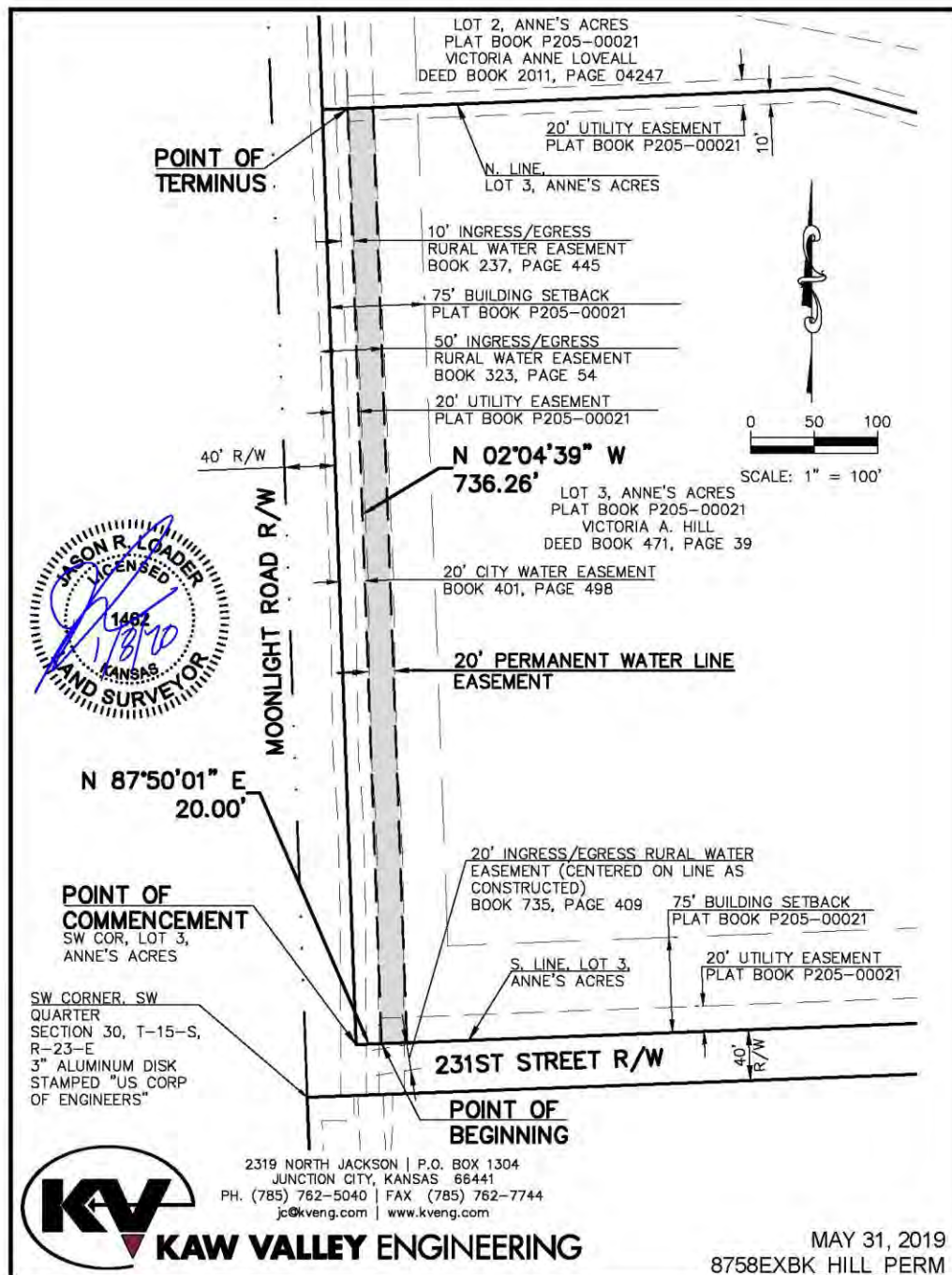
MAY 31, 2019  
8758EXBJ\_MEDLIN\_PERM

2 OF 2

## Project Tract No. 8

Fee Simple Owner: Victoria A. Hill

Legal Description of the Real Property to be acquired for Permanent Easement:



**PERMANENT WATER LINE EASEMENT DESCRIPTION:**

THAT PORTION OF LOT 3, ANNE'S ACRES RECORDED IN PLAT BOOK P205-00021 IN THE COUNTY OF MIAMI, STATE OF KANSAS, BEING A STRIP OF LAND 20 FEET WIDE LYING EASTERLY OF AND ADJOINING TO THE LINE DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 3; THENCE ON THE SOUTH LINE OF SAID LOT 3, N 87°50'01" E 20.00 FEET TO THE EAST LINE OF A 20 FOOT CITY WATER EASEMENT RECORDED IN DEED BOOK 401, AT PAGE 498 AND THE POINT OF BEGINNING; THENCE ON SAID EAST LINE, N 02°04'39" W 736.26 FEET TO THE NORTH LINE OF SAID LOT 3 AND THE POINT OF TERMINUS. CONTAINS 14,726 SQUARE FEET MORE OR LESS. THE SIDELINES OF THE ABOVE DESCRIBED STRIP OF LAND SHALL BE EXTENDED AND SHORTENED TO TERMINATE AT THE NORTH AND SOUTH LINES OF SAID LOT 3, ANNE'S ACRES.  
END OF DESCRIPTION



2319 NORTH JACKSON | P.O. BOX 1304  
JUNCTION CITY, KANSAS 66441  
PH. (785) 762-5040 | FAX (785) 762-7744  
jc@kveng.com | www.kveng.com

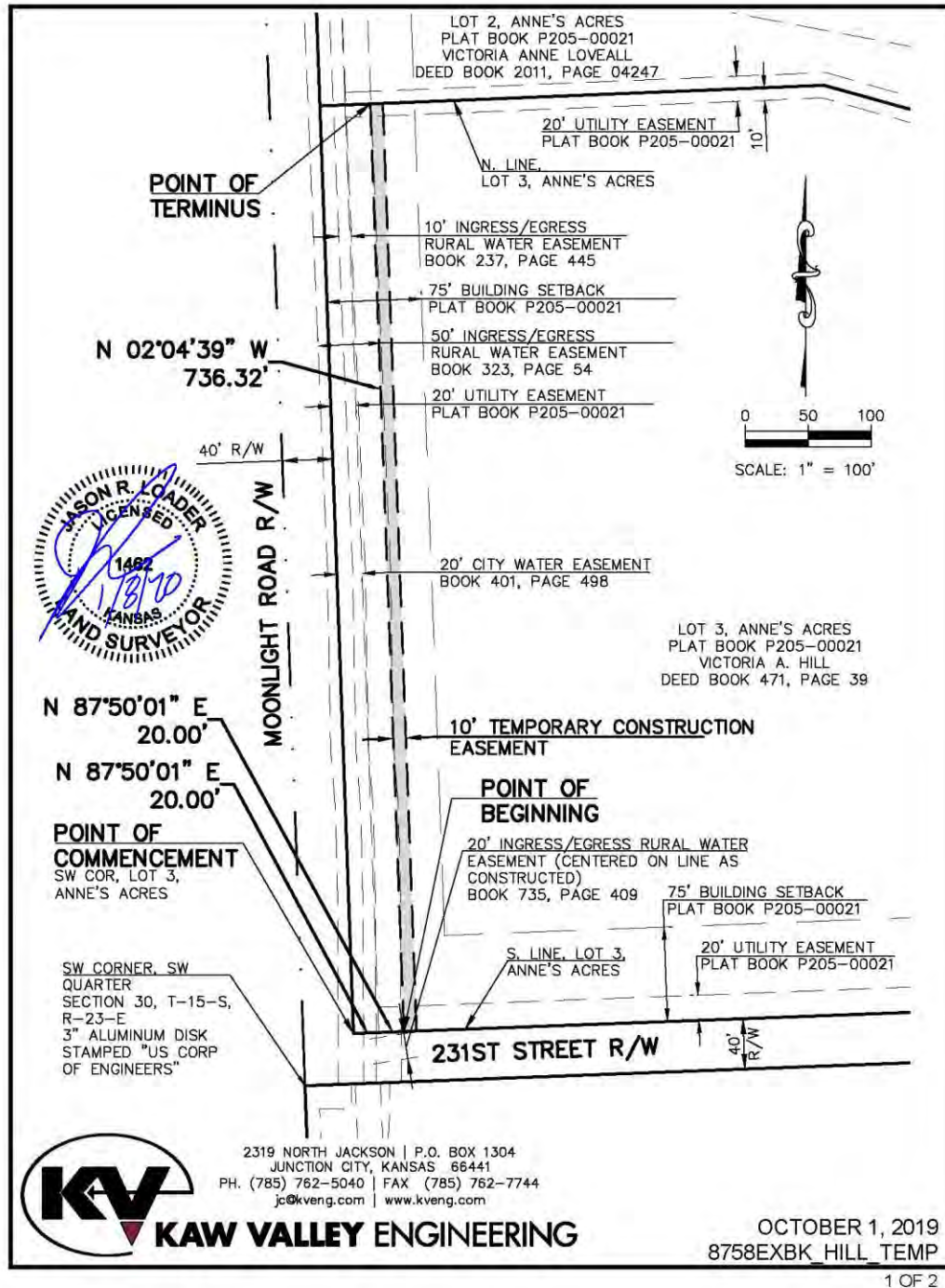
**KAW VALLEY ENGINEERING**

MAY 31, 2019  
8758EXBK\_HILL\_PERM

2 OF 2



**Legal Description of the Real Property to be acquired for Temporary Construction Easement:**



**TEMPORARY CONSTRUCTION EASEMENT DESCRIPTION:**

THAT PORTION OF LOT 3, ANNE'S ACRES RECORDED IN PLAT BOOK P205-00021 IN THE COUNTY OF MIAMI, STATE OF KANSAS, BEING A STRIP OF LAND 10 FEET WIDE LYING EASTERLY OF AND ADJOINING TO THE LINE DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 3; THENCE ON THE SOUTH LINE OF SAID LOT 3, N 87°50'01" E 20.00 FEET TO THE EAST LINE OF A 20 FOOT CITY WATER EASEMENT RECORDED IN DEED BOOK 401, AT PAGE 498; THENCE CONTINUING ON SAID SOUTH LINE, N 87°50'01" E 20.00 FEET TO THE POINT OF BEGINNING; THENCE 20 FEET EAST OF AND PARALLEL WITH SAID EAST LINE, N 02°04'39" W 736.32 FEET TO THE NORTH LINE OF SAID LOT 3 AND THE POINT OF TERMINUS. CONTAINS 7,363 SQUARE FEET MORE OR LESS. THE SIDELINES OF THE ABOVE DESCRIBED STRIP OF LAND SHALL BE EXTENDED AND SHORTENED TO TERMINATE AT THE NORTH AND SOUTH LINES OF SAID LOT 3, ANNE'S ACRES. END OF DESCRIPTION



2319 NORTH JACKSON | P.O. BOX 1304  
JUNCTION CITY, KANSAS 66441  
PH. (785) 762-5040 | FAX (785) 762-7744  
jc@kveng.com | www.kveng.com

**KAW VALLEY ENGINEERING**

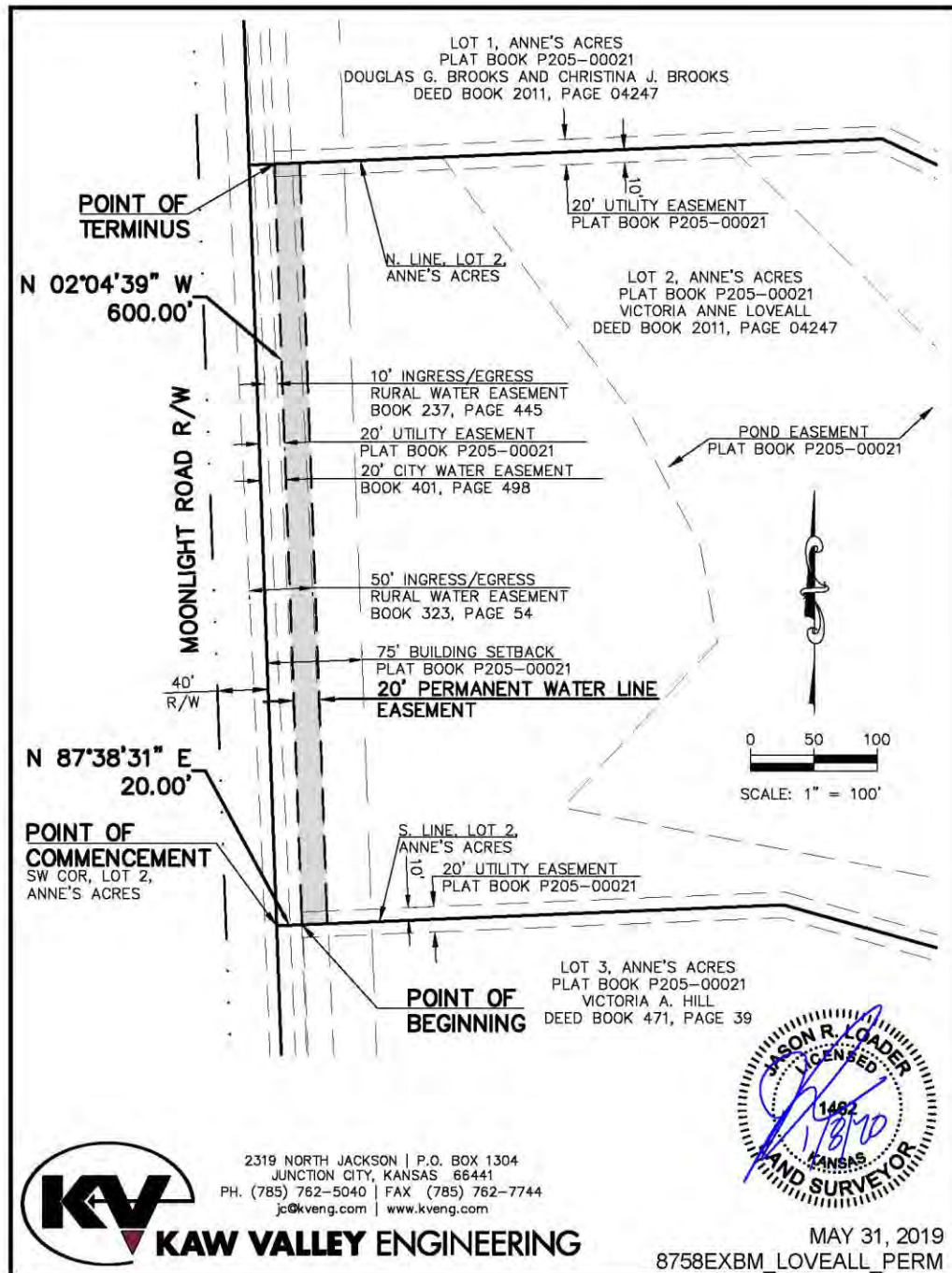
OCTOBER 1, 2019  
8758EXBK\_HILL\_TEMP

2 OF 2

**Project Tract No. 9**

**Fee Simple Owner:** Victoria Anne Loveall

**Legal Description of the Real Property to be acquired for Permanent Easement:**



1 OF 2

**PERMANENT WATER LINE EASEMENT DESCRIPTION:**

THAT PORTION OF LOT 2, ANNE'S ACRES RECORDED IN PLAT BOOK P205-00021 IN THE COUNTY OF MIAMI, STATE OF KANSAS, BEING A STRIP OF LAND 20 FEET WIDE LYING EASTERLY OF AND ADJOINING TO THE LINE DESCRIBED AS FOLLOWS:  
COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE ON THE SOUTH LINE OF SAID LOT 2, N 87°38'31" E 20.00 FEET TO THE EAST LINE OF A 20 FOOT CITY WATER EASEMENT RECORDED IN DEED BOOK 401, AT PAGE 498 AND THE POINT OF BEGINNING; THENCE ON SAID EAST LINE, N 02°04'39" W 800.00 FEET TO THE NORTH LINE OF SAID LOT 2 AND THE POINT OF TERMINUS. CONTAINS 12,000 SQUARE FEET MORE OR LESS. THE SIDELINES OF THE ABOVE DESCRIBED STRIP OF LAND SHALL BE EXTENDED AND SHORTENED TO TERMINATE AT THE NORTH AND SOUTH LINES OF SAID LOT 2, ANNE'S ACRES.  
END OF DESCRIPTION



2319 NORTH JACKSON | P.O. BOX 1304  
JUNCTION CITY, KANSAS 66441  
PH. (785) 762-5040 | FAX (785) 762-7744  
jc@kveng.com | www.kveng.com

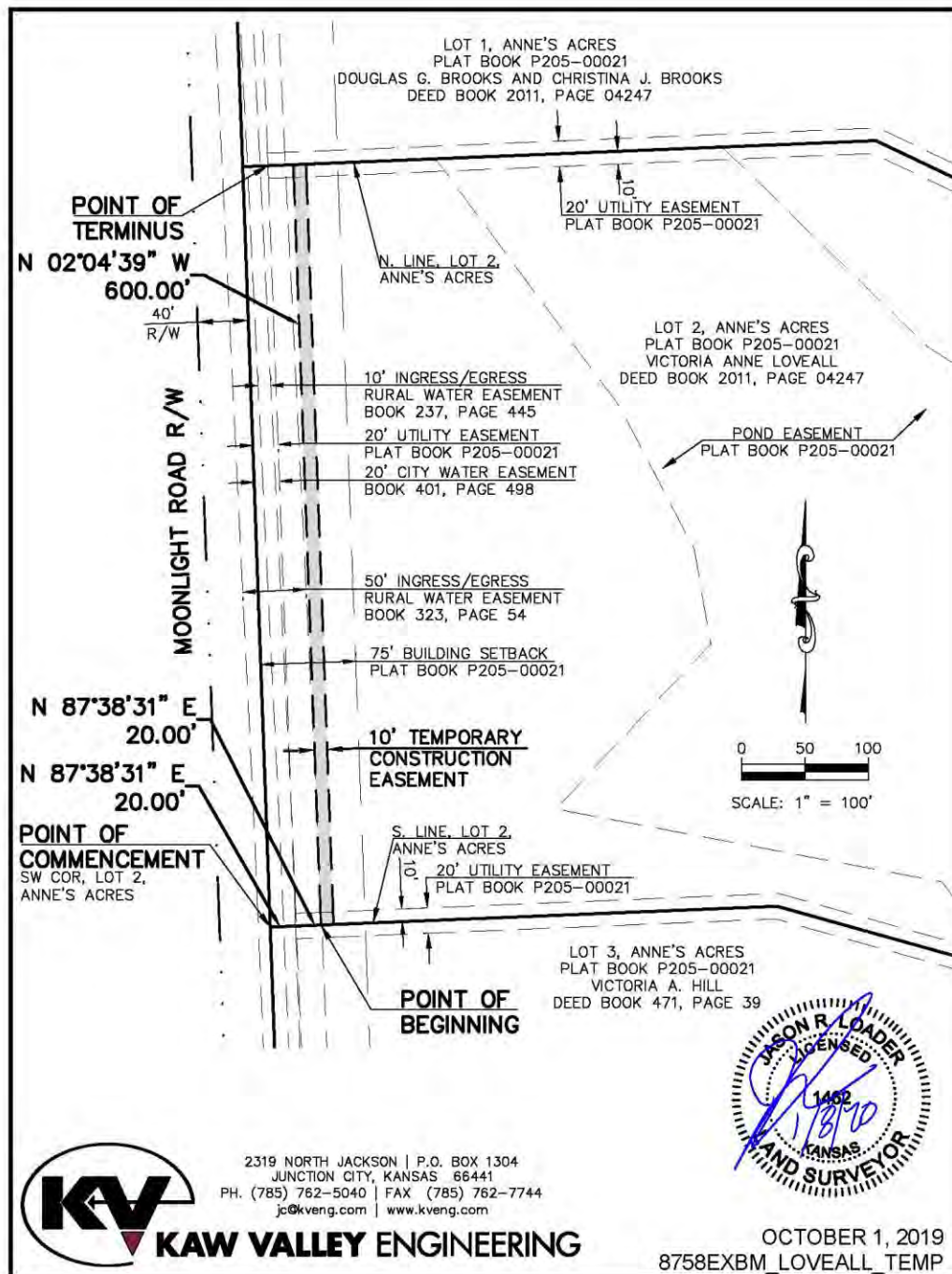
**KAW VALLEY ENGINEERING**

MAY 31, 2019  
8758EXBM LOVEALL PERM

2 OF 2



**Legal Description of the Real Property to be acquired for Temporary Construction Easement:**



**TEMPORARY CONSTRUCTION EASEMENT DESCRIPTION:**

THAT PORTION OF LOT 2, ANNE'S ACRES RECORDED IN PLAT BOOK P205-00021 IN THE COUNTY OF MIAMI, STATE OF KANSAS, BEING A STRIP OF LAND 10 FEET WIDE LYING EASTERLY OF AND ADJOINING TO THE LINE DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 2; THENCE ON THE SOUTH LINE OF SAID LOT 2, N 87°38'31" E 20.00 FEET TO THE EAST LINE OF A 20 FOOT CITY WATER EASEMENT RECORDED IN DEED BOOK 401, AT PAGE 498; THENCE CONTINUING ON SAID SOUTHERLY LINE, N 87°38'31" E 20.00 FEET TO THE POINT OF BEGINNING; THENCE 20 FEET EAST OF AND PARALLEL WITH SAID EAST LINE, N 02°04'39" W 600.00 FEET TO THE NORTH LINE OF SAID LOT 2 AND THE POINT OF TERMINUS. CONTAINS 6,000 SQUARE FEET MORE OR LESS. THE SIDELINES OF THE ABOVE DESCRIBED STRIP OF LAND SHALL BE EXTENDED AND SHORTENED TO TERMINATE AT THE NORTH AND SOUTH LINES OF SAID LOT 2, ANNE'S ACRES.  
END OF DESCRIPTION



2319 NORTH JACKSON | P.O. BOX 1304  
JUNCTION CITY, KANSAS 66441  
PH. (785) 762-5040 | FAX (785) 762-7744  
jc@kveng.com | www.kveng.com

**KAW VALLEY ENGINEERING**

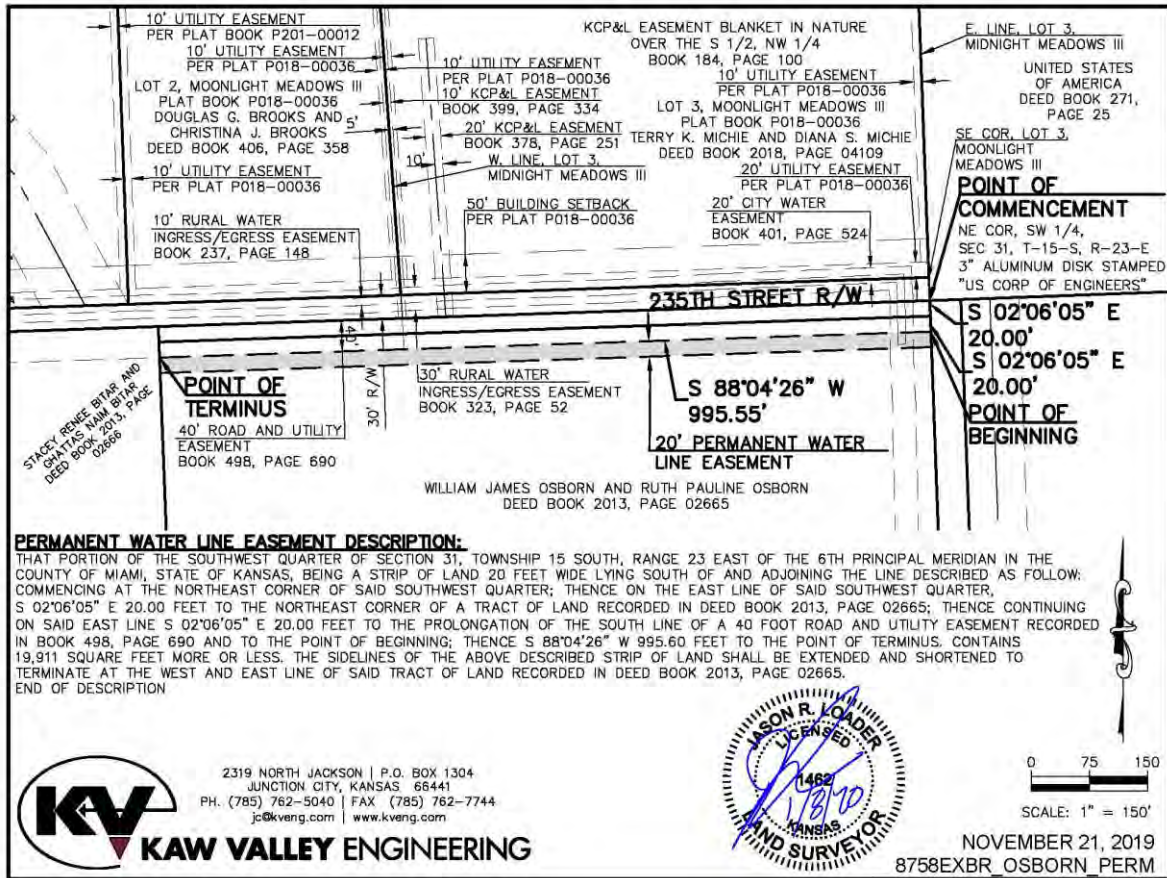
OCTOBER 1, 2019  
8758EXBM LOVEALL TEMP

2 OF 2

## Project Tract No. 10

Fee Simple Owner: William James Osborn and Ruth Pauline Osborn

Legal Description of the Real Property to be acquired for Permanent Easement:





**Legal Description of the Real Property to be acquired for Temporary Construction Easement:**

